

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF NEW MEXICO

3 UNITED STATES OF AMERICA,

4  
5 Plaintiff,

6 vs.

14-CV-1025-RB-SMV

7 THE CITY OF ALBUQUERQUE,

8 Defendant.

9 vs.

10 THE ALBUQUERQUE POLICE  
11 OFFICERS' ASSOCIATION,

12 Intervenor.

13  
14 TRANSCRIPT OF PROCEEDINGS  
15 STATUS CONFERENCE

16 BEFORE THE HONORABLE ROBERT C. BRACK  
17 UNITED STATES DISTRICT JUDGE  
18 THURSDAY, MARCH 15, 2018, 1:30 P.M.  
19 ALBUQUERQUE, NEW MEXICO

20 Proceedings recorded by mechanical stenography,  
21 transcript produced by computer.

22 Reported by:

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## A P P E A R A N C E S

FOR THE UNITED STATES:

UNITED STATES ATTORNEY'S OFFICE  
District of New Mexico  
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BY: MR. JOHN C. ANDERSON, UNITED STATES ATTORNEY  
MS. ELIZABETH M. MARTINEZ, EXECUTIVE AUSA

--AND--

UNITED STATES DEPARTMENT OF JUSTICE  
Civil Rights Division  
950 Pennsylvania Avenue, Northwest  
Washington, D.C. 20005  
BY: MR. PAUL KILLEBREW, ESQ.  
MS. SARAH LOPEZ, ESQ.

FOR THE CITY OF ALBUQUERQUE:

CITY ATTORNEY'S OFFICE  
One Civic Plaza, Northwest  
Fourth Floor  
Albuquerque, New Mexico 87102  
BY: MR. ESTEBAN AGUILAR, JR., CITY ATTORNEY  
MR. JERAMY SCHMEHL, ESQ.

FOR THE INTERVENOR APOA:

SANCHEZ, MOWRER & DESIDERIO, P.C.  
Attorneys at Law  
Post Office Box 1966  
Albuquerque, New Mexico 87103  
BY: MR. FREDERICK M. MOWRER, ESQ.

## A P P E A R A N C E S (Continued)

## ALSO PRESENT:

DR. JAMES D. GINGER, INDEPENDENT MONITOR  
MS. LAURIE OWENS, DIRECTOR OF OPERATIONS  
MR. DANIEL GIAQUINTO, DEPUTY MONITOR  
MR. LORENZO GARCIA, SPECIAL CONSULTANT  
MS. ALYSSA FERDA, USAO OUTREACH COORDINATOR  
MR. MICHAEL J. GEIER, CHIEF, APD  
MR. ERIC GARCIA, DEPUTY CHIEF, APD  
MR. HAROLD MEDINA, DEPUTY CHIEF, APD  
MS. CORI LOWE, COMPLIANCE BUREAU  
MR. TIM KELLER, MAYOR  
MS. SARITA NAIR, CHIEF ADMINISTRATIVE OFFICER  
MR. SEAN WILLOUGHBY, PRESIDENT, APOA  
MR. JUSTIN MONTGOMERY, VICE-PRESIDENT, APOA  
MR. JAMES LEWIS, SENIOR ADVISOR FOR PUBLIC SAFETY  
MR. PETER CUBRA, ESQ.  
MR. ALFRED MATHEWSON, ESQ.  
MR. ANTONIO MAESTAS, ESQ.  
MR. RALPH ARELLANES  
MS. MARIA BAUTISTA  
MR. EDWARD HARNESS, CPOA EXECUTIVE DIRECTOR  
MS. NANCY KOENIGSBERG, ESQ.  
MR. STEVEN ALLEN  
MR. CHRIS SYLVAN  
MR. ROD KONTNY  
MS. DOROTHY WOODWARD  
MR. DANNY WHATLEY  
DR. BILL KASS  
MS. CHELSEA VAN DEVENTER

TELEPHONIC APPEARANCE: DIONNA K. FORD, Law Clerk

1 STATUS CONFERENCE

2 (Court in session at 1:30 p.m.)

3 COURTROOM DEPUTY JESSICA CHAVEZ: All rise.

4 United States District Court is now in  
5 session, the Honorable Robert C. Brack presiding. God  
6 save these United States and this Honorable Court.

7 THE COURT: Thanks, everyone. Good  
8 afternoon. Take your seats, please.

9 This is United States of America v. The City  
10 of Albuquerque, and The Albuquerque Police Officers'  
11 Association as intervenor.

12 We're here this afternoon for a status  
13 conference, and rather than my going around the tables  
14 and trying to figure out who all is here, why don't I  
15 just have you announce your appearances, please.  
16 Perhaps we can begin with the new U.S. Attorney.

17 MR. JOHN C. ANDERSON: Thank you, Your Honor.  
18 John Anderson, United States Attorney, on behalf of the  
19 United States.

20 THE COURT: Yes, sir. Thank you.

21 MS. ELIZABETH MARTINEZ: Elizabeth Martinez  
22 on behalf of the United States. And we're joined with  
23 our assistant, Alyssa Ferda.

24 MR. PAUL KILLEBREW: Paul Killebrew on behalf  
25 of the United States. Also sitting at counsel table is

1 Sarah Lopez, an investigator in my office.

2 MR. FREDERICK MOWRER: May it please the  
3 Court. Frederick Mowrer on behalf of the Albuquerque  
4 Police Officers' Association, along with President Sean  
5 Willoughby and Vice-President Justin Montgomery.

6 THE COURT: Thanks very much.

7 MR. ESTEBAN AGUILAR, JR.: Good afternoon,  
8 Your Honor. Esteban Aguilar, Jr., on behalf of the City  
9 of Albuquerque. With me is co-counsel Jeramy Schmehl.  
10 And with the Court's permission, I would like the  
11 attendees here on behalf of the City to introduce  
12 themselves as well.

13 THE COURT: Please.

14 MR. ESTEBAN AGUILAR, JR.: Thank you, Your  
15 Honor.

16 MR. JAMES LEWIS: Your Honor, James Lewis,  
17 Monitor, on behalf of APD and the City of Albuquerque.

18 THE COURT: Thank you.

19 MR. ERIC GARCIA: Your Honor, Deputy Chief  
20 Eric Garcia from APD.

21 MS. CORI LOWE: Your Honor, Cori Lowe,  
22 lieutenant with APD.

23 MS. SARITA NAIR: Your Honor, Sarita Nair,  
24 Chief Administrative Officer.

25 MR. TIM KELLER: Your Honor, Tim Keller,

1 Mayor of Albuquerque.

2 THE COURT: Yes, sir. Thank you.

3 And we've got Judge Garcia, who is here as  
4 well.

5 THE HONORABLE LORENZO GARCIA: Yes, special  
6 consultant for the City of Albuquerque, Lorenzo Garcia.

7 THE COURT: Thank you.

8 MS. LAURIE OWENS: Your Honor, Laurie Owens  
9 with the Monitoring Team.

10 MR. DANIEL GIAQUINTO: Good afternoon, Your  
11 Honor. Daniel Giaquinto, Deputy Monitor, Independent  
12 Monitoring Team.

13 THE COURT: Thank you.

14 DR. JAMES GINGER: Good afternoon, Your  
15 Honor. James Ginger with the Monitoring Team.

16 THE COURT: Thank you very much. I think  
17 that's the last of the introductions. I know that we  
18 have representatives from the amici here, and I think  
19 we'll hear from them in turn this afternoon, and look  
20 forward to you introducing yourself at that time.

21 The parties have proposed an agenda for  
22 today's status conference, and the first item is  
23 introduction of the new leadership, the U.S. Attorney.

24 Well, Ms. Martinez, you were going to  
25 introduce Mr. Anderson.

1 MS. ELIZABETH MARTINEZ: Good afternoon, Your  
2 Honor. I would like to take this opportunity to bring  
3 the Court and the community up to date on some changes  
4 to the Department of Justice team that is representing  
5 the United States.

6 First I would like to alert the Court and the  
7 community that Luis Saucedo, who has been a member of  
8 the DOJ team, is not going to be a part of our team  
9 going forward. As the Court has been aware, Mr. Saucedo  
10 has been representing the United States both in this  
11 case and in our constitutional policing case in Puerto  
12 Rico. As many in our community are aware, Puerto Rico  
13 has been experiencing some pretty challenging  
14 conditions, particularly in the aftermath of two  
15 catastrophic hurricanes, and Mr. Saucedo is at this  
16 point required to dedicate virtually all of his time to  
17 the police practices case in Puerto Rico.

18 We do, however, want to reassure the Court and  
19 our community that the Department of Justice, both at  
20 the Civil Rights Division and here at the U.S.  
21 Attorney's Office, remain fully committed to fully and  
22 completely following through with the constitutional  
23 policing case here in Albuquerque.

24 I would at this time like to introduce to you  
25 and to our community our new U.S. Attorney, and I do

1       that with great pleasure. As you know, Judge, John  
2       Anderson is no stranger to this Court or to the U.S.  
3       Attorney's Office. He was an Assistant U.S. Attorney in  
4       our office from 2008 to 2013, where he was in our  
5       Criminal Division. He was in our office when our office  
6       began investigating the Albuquerque Police Department.  
7       And, as this Court is aware, he clerked for Judge Kelly  
8       at the Tenth Circuit in Santa Fe. And, of course, he  
9       practiced before you and other judges of this Court  
10      while he was an AUSA, and he continued to appear before  
11      you and other judges of this Court when he was in  
12      private practice after he left our office.

13               Mr. Anderson will speak to you and to our  
14      community about his commitment to this important reform  
15      process as U.S. Attorney and as the head of our office.

16               THE COURT: Thank you. Mr. Anderson, please  
17      come forward. Congratulations on your appointment.

18               We met recently and talked about things just  
19      generally. I'm glad to have you on board.

20               MR. JOHN C. ANDERSON: Thank you, Your Honor.  
21      May it please the Court.

22               It's a privilege to be here for this status  
23      conference today and to represent the United States in  
24      furtherance of this important reform effort. I do want  
25      to thank the Court. I know it has put in many hours and



1 efforts to move this matter forward. I would also like  
2 to thank the City, the community, stakeholders, and the  
3 amici for being here for this important conference, and  
4 for all of their work in this matter that is crucial to  
5 the health and safety of our community.

6 I do want to assure the Court and all the  
7 community stakeholders and amici of my commitment to  
8 moving this important effort forward. I know that all  
9 the parties, including the City, have put in many hours  
10 of work in hopes of achieving this reform that will  
11 undoubtedly make our community a healthier and safer  
12 place to live. And so I thank you all for being here,  
13 and again I do thank the Court, and I look forward to  
14 working with the Court and all the parties as we make  
15 further progress in this matter, Your Honor. Thank you.

16 THE COURT: Thank you. And congratulations  
17 once again on your appointment to U.S. Attorney.

18 MR. JOHN C. ANDERSON: Thank you, Your Honor.

19 THE COURT: Mr. Schmehl, you were going to  
20 make an introduction, as well.

21 MR. JERAMY SCHMEHL: Your Honor, may it  
22 please the Court.

23 Mr. Aguilar is the newly appointed City  
24 Attorney. He comes from private practice with a  
25 background representing stakeholders in this very

1 system. He has a background in complex litigation, and  
2 he has been practicing for over ten years.

3 I personally am excited to have him in the  
4 office two doors down from me. It has been empty for a  
5 little bit longer than I would have liked. But I'm very  
6 excited, as is the City. I won't belabor the point, and  
7 I'll allow him to speak to the Court.

8 And with that, I'll give you the new City  
9 Attorney, Mr. Steve Aguilar.

10 THE COURT: Thank you, Mr. Schmehl.

11 Mr. Aguilar.

12 MR. ESTEBAN AGUILAR, JR.: Thank you, Your  
13 Honor.

14 THE COURT: And you may not recall, but I  
15 have met you.

16 MR. ESTEBAN AGUILAR, JR.: Absolutely.

17 THE COURT: And your dad and I went to law  
18 school together.

19 MR. ESTEBAN AGUILAR, JR.: That is absolutely  
20 correct, Your Honor, and I do remember.

21 THE COURT: I'm glad to have you on board  
22 with us.

23 MR. ESTEBAN AGUILAR, JR.: I'm excited to be  
24 on board, Your Honor. May it please the Court.  
25 Audience members, stakeholders, members of the

1 community, Your Honor, and of course the DOJ team.

2 Again, my name is Esteban Aguilar, Jr. --  
3 Steve, Your Honor, as you know. I am excited to have  
4 the opportunity to become a part of this team and this  
5 effort on behalf of the City of Albuquerque to reaffirm  
6 our commitment to the reform process, not only to the  
7 Court, but to the community, as well. I know that the  
8 Mayor and Ms. Nair are going to speak more to that.

9 But I wanted to assure the Court that the City  
10 treats our responsibilities and our obligations under  
11 the agreement very seriously, and we are taking all  
12 efforts that we can to expedite the reform process and  
13 to make sure that it is done correctly, and that it is  
14 done efficiently, Your Honor.

15 And so that being said, I know we have a long  
16 day and so I don't want to take up more of the Court's  
17 time, but I appreciate the opportunity to work and  
18 appear before you here today, and I am looking forward  
19 to continuing to work with everybody here on behalf of  
20 the residents of the City of Albuquerque.

21 THE COURT: You're welcome.

22 MR. ESTEBAN AGUILAR, JR.: Thank you, Your  
23 Honor.

24 THE COURT: I'm glad to have you as part of  
25 the team, as well.

1 MR. ESTEBAN AGUILAR, JR.: Thank you.

2 THE COURT: And say "Hi" to your dad.

3 MR. ESTEBAN AGUILAR, JR.: Thank you, Your  
4 Honor. Thank you.

5 THE COURT: Mr. Mayor.

6 MR. TIM KELLER: Thank you, Your Honor, and  
7 members who are here today. I appreciate the  
8 opportunity to share a few words before we get started  
9 in earnest, and I believe this is at least the first  
10 time in quite some time that the Mayor has been able to  
11 be here and present, so I do want to just acknowledge  
12 that I'm grateful for that opportunity, and I think  
13 it's something, from time to time, that might be  
14 important for the City and the stakeholders.

15 Now, firstly, I want to say thank you for  
16 having it in this venue. I've always wanted to come in  
17 this courtroom, and I'm glad I've never had to come in  
18 here, but I've only seen it on TV where I saw you, which  
19 was that KUNM special. Actually, I was just really  
20 thrilled to be able to enjoy this special place, as  
21 well.

22 So let me also, I think, just reaffirm, since  
23 we haven't gathered in a formal way since our  
24 administration took office, that we are committed to not  
25 only complying with the CASA, but also to fully

1 institutionalizing constitutional policing in  
2 Albuquerque.

3 And I am very grateful to the DOJ, to Dr.  
4 Ginger, to the APOA, and the other amici for giving our  
5 administration and the new command staff a little bit of  
6 extra time to get up to speed and make some urgent  
7 changes that we needed to make. Also, I am thankful to  
8 the Court for the associated extensions that have  
9 enabled us to do that.

10 Now, as Mayor, I want to share and reiterate  
11 that fundamentally, I believe the Mayor is ultimately  
12 responsible for at least the City's side of this  
13 process, and so I accept that responsibility. I ran on  
14 that responsibility, and I know that I will be in many  
15 ways judged by the people on how well or how well I did  
16 not do with respect to that responsibility. And I  
17 actually think that's the way it should be, and I think  
18 that's what's an important part of democracy in our city  
19 and leadership in our community.

20 Now, I want to share just a moment to catch up  
21 at least all the stakeholders on some of the changes  
22 that we've made, and sort of who's who, and roles and  
23 responsibilities, and then I'll just cut it short.

24 Number one, in December when I came in, the  
25 first order of business was to reorganize the Police

1 Department along a couple of lines. One was for  
2 effective crime fighting, which is something, obviously,  
3 that is sorely needed in our community. But also,  
4 effective compliance and cooperation with the DOJ  
5 process.

6 And so we'll leave these with the clerks, but  
7 I do have the before and after org charts, and I just  
8 want to highlight a couple of things. We now have a  
9 dedicated Compliance Bureau in APD that, of course, is  
10 headed by Deputy Chief Garcia, and that is essentially  
11 the job of that entire Bureau. And the fact that we  
12 have a Deputy Chief in charge who has been doing this  
13 before I think speaks to the seriousness and the level  
14 of priority that it needs to be.

15 We also have a new Chief of Police, who I know  
16 most folks have met, and he has done an outstanding job  
17 in terms of helping craft a structure and individuals  
18 for hiring that can actually deliver on this process.

19 Now, there are a couple other components to  
20 this. We just met our new City Attorney, who I think is  
21 an excellent fit for this role. We also have an  
22 individual by the name of James Lewis, who is here with  
23 us today. This is essentially the civilian counterpart  
24 to Deputy Chief Garcia, so he is basically the civilian  
25 charged with monitoring compliance -- lower case

1 "monitoring" -- for myself, for the City of Albuquerque,  
2 for the Mayor's Office, for the 11th floor, and for the  
3 CAO. And so we are very grateful to have James on board  
4 for that important role. And I won't go into his  
5 extensive bio, but there is a whole host of reasons why  
6 I think he's an excellent fit for that role.

7 I think, lastly, let me just talk about  
8 something a little bit more deeper in the community, but  
9 I think is very relevant.

10 We now have a full-time community policing  
11 coordinator, and that's a gentleman by the name of Chris  
12 Sylvan, who I think is here. Maybe he'll wave. Chris  
13 Sylvan in the back. This, again, is an area where I  
14 believe that we need an individual accountability, both  
15 in the org chart and in terms of an actual person who  
16 can actually facilitate community policing. And so  
17 we've essentially honored that notion with both a person  
18 and a full-time position.

19 And so those are some of the larger changes.  
20 I won't go into the others as a whole, but just note  
21 that to our knowledge, this is the largest restructuring  
22 in APD's modern history, and primarily what was cut out  
23 was the level of major, and we now have, I think, very  
24 clear traditional bureaus and divisions in the  
25 departments. And we also have a situation where we

1 still have some vacancies that we're working on, but a  
2 lot of those actually are in the compliance area.

3 And so we continue to put the right people in  
4 the right places, and that combination is what I also  
5 take personal interest and zeal in, in terms of making  
6 sure we've got the boxes right and the people right.  
7 And I think so far, we've done a very good job of  
8 setting that up.

9 So I think with that, Your Honor, let me just  
10 reiterate our commitment to providing the resources that  
11 APD needs, as well, to continue these reforms, and that  
12 includes sworn officers, civilian personnel, and the  
13 technology that is associated with not only this  
14 process, which there is a strong technological  
15 component, but also with operating a modern, effective,  
16 crime-fighting Department. And fortunately, the Council  
17 has made some tough decisions in the last week that is  
18 going to enable us to actually do that.

19 So historically, I think there are three areas  
20 that we had to bring together as a City.

21 Number one, it takes an administration and a  
22 Mayor and a Police Department saying, "We are here to  
23 honor both the letter and the spirit of the CASA  
24 process." Number two, it takes people in the right  
25 places, in the right structure, to get things done. And



1        number three, we have to provide the resources that are  
2        needed so that we can actually adequately staff our  
3        Police Department.

4                That is going to be an ongoing process for us,  
5        but I think financially, we're in much better shape, and  
6        I appreciate the Council's vote with respect to dealing  
7        with that issue. But we actually have a chance to  
8        adequately resource our Police Department for the first  
9        time in a long time. And so we have to work on that  
10       over the next few years. It's not going to be a short  
11       process, but I think at least now we have the  
12       opportunity to have the kind of Police Department  
13       adequately resourced and the kind of reform process  
14       adequately resourced, that we haven't had in a long  
15       time.

16               And I'll close with this. I know on the front  
17       lines, use of force obviously is fundamental to this  
18       entire process. I was committed to bringing together  
19       the notion of building community trust, but also setting  
20       up a situation where our officers feel empowered to do  
21       the kind of work they need to do in an appropriate way  
22       and in that constitutional community policing manner  
23       that we're committed to. And I think we have made some  
24       excellent early progress on that, and I hope that's also  
25       going to help a lot of the issues that we're seeing on

1 the front line with our officers, as well.

2 So with that, Your Honor, again, I just want  
3 to say thank you. I know we have a long road to go on  
4 this, but I know we also want to make as much progress  
5 as we can, as fast as we can, and so somewhere in the  
6 middle of that I hope will be a successful journey with  
7 the DOJ process.

8 Thank you.

9 THE COURT: Mr. Mayor, of course, thank you  
10 for your remarks, and if you'll allow me just a minute  
11 to follow up on a couple of points that you made.

12 First of all, I love this courtroom, too.  
13 Judge Parker is ever gracious. He says, "When you have  
14 to be in Albuquerque, Bob, call me first." And it so  
15 happens that he's over at Lomas today, doing  
16 sentencings, and so the courtroom was available, and I  
17 really do appreciate that because it's such a lovely  
18 courtroom. And a lot of people don't know it's here, a  
19 lot of people never have had a chance to see it. So  
20 there's that.

21 I don't think it would be out of school to say  
22 that when you hadn't been on board very long, you asked  
23 to have a tete-a-tete, a meeting, although factions were  
24 not represented. And I came from Las Cruces  
25 specifically for that purpose, and we met over at Lomas

1 in the courtroom, and just by way of introduction, for  
2 the most part. And I appreciated the chance to get to  
3 know you, had not known you before.

4 And as it came out at the time, I was on the  
5 fence about whether I was going to continue to oversee  
6 this process. It doesn't matter to anybody else, but  
7 I'm going senior status this summer, and with that gives  
8 me some leeway about the cases that I take and don't,  
9 and I had thought maybe I'd let somebody else enjoy all  
10 this fun.

11 And you said then what you've said very  
12 publicly just now. You ran on this issue. You're going  
13 to be judged on the success of this issue, among many of  
14 those other issues during your tenure. And you said, "I  
15 own this." And I said at that time, with that kind of  
16 commitment level from you personally to all of those  
17 that are present, I agreed to stay on. So you either  
18 get the credit or, depending on how people view it --  
19 you know, I'm still going to be hitched.

20 I attended a Consent Decree conference that  
21 was put together by Judge Morgan from New Orleans in the  
22 Eastern District of Louisiana. She has a Consent Decree  
23 ongoing there, and she thought a long time ago -- she  
24 has been in that process since 2012 -- that we need not  
25 reinvent wheels on our own, that we ought to be able

1       to -- and I think there are nine Decrees going on, from  
2       as far as Puerto Rico to Seattle.

3               So she has organized this conference. This is  
4       the second year; it's my first year to be able to  
5       attend. But Deputy Chief Garcia and Mr. Schmehl were  
6       both there on behalf of the City. I was pleased to see  
7       them. I was pleased to see that level of interest. And  
8       we can learn a lot from what has gone before us.

9               And we were introduced to the concept of a  
10       Compliance Bureau. Maybe you-all were onboard with all  
11       that beforehand. I hadn't heard about it until that  
12       time. And two young men got up, and they described  
13       themselves as geeks. That wasn't disparaging. They  
14       took that on themselves. And they talked about the need  
15       to be able to measure before you could mark improvement.  
16       And they had stood this thing up in New Orleans to a  
17       really great result.

18               And there is humor in the process. They  
19       looked like they were 14 years old, to me. But  
20       everybody looks like they're 14 years old, to me. But  
21       someone in the audience said at some point, "I've got a  
22       question for Harry Potter," one of the young geeks up  
23       there. And he didn't mean any offense, he said, and the  
24       guy said, "I don't take any offense. I cultivate that  
25       image. You know, we have the haircuts and the glasses

1 and the whole thing."

2 I'm really glad. I came home, talked to my  
3 clerks about the Compliance Bureau sort of approach, and  
4 said, "I'm looking forward to talking to the City about  
5 that." And within just a few days of that, I learned  
6 that you-all were of the same mind. I'm pleased about  
7 that.

8 So thank you for your comments and your  
9 commitment, and unless there's something else -- Ms.  
10 Nair, were you --

11 MS. SARITA NAIR: No, Your Honor, unless you  
12 have questions for me.

13 THE COURT: No, thank you.

14 Thanks, Mr. Mayor.

15 MR. TIM KELLER: Thank you, Your Honor.

16 THE COURT: And you're always welcome at  
17 these. Please feel free.

18 MR. TIM KELLER: Thank you. I appreciate you  
19 sticking it out, too.

20 THE COURT: So, Mr. Killebrew, are you up  
21 next, Item 3 on the agenda, the joint stipulation  
22 suspending CASA Paragraph 308? I know what that means,  
23 but there are those here that may not.

24 And the fact is, Mr. Killebrew was there, too.

25 MR. PAUL KILLEBREW: Yes, Your Honor.

1           THE COURT: In Ft. Worth, at the conference.  
2 I'm glad to hear you now, please.

3           MR. PAUL KILLEBREW: Thank you so much, Your  
4 Honor. Thank you, as well, for indulging the parties,  
5 the amici, this community by coming to Albuquerque  
6 today for a public hearing that everyone could be  
7 present at.

8           The last time we were all together in November  
9 felt very different, and I think at that time we knew  
10 that we were on the precipice of big changes. I think  
11 what we're here today to say is that those changes are  
12 coming, and the filings I'm going to talk about today  
13 are the first stage of that. So there's going to be --  
14 also, because the Mayor brought it up, I wanted to just  
15 acknowledge that the staffing decisions that the  
16 Albuquerque Police Department and the City have made  
17 have been very positive. In November, I said that they  
18 were agents of change within the Albuquerque Police  
19 Department, and those agents of change are still there,  
20 and now they are the leaders of change within the  
21 Albuquerque Police Department.

22           So Deputy Chief Garcia is now in charge of  
23 that Compliance Bureau. He is the one who is managing  
24 the entire change process within the agency. We view  
25 that as a very positive decision by the City.

1           There's also a commander, John Sullivan. He  
2       was previously the commander over the Special Operations  
3       Division which encompasses the SWAT Team. As you may  
4       remember, the SWAT Team has been in compliance for quite  
5       some time. Now Commander Sullivan has been put in  
6       charge of the Academy. The Academy has been a focus of  
7       Monitor reports. It was an area of deliberate  
8       non-compliance in IMR 6, and so now they've got somebody  
9       over there to whip it into shape, and we're very pleased  
10      with those moves.

11           The three filings that we're going to talk  
12      about today are the one you just mentioned about  
13      Paragraph 308; there's another filing about use-of-force  
14      modifications; and then the City's filing yesterday of  
15      its Compliance Plan. We're going to talk about those  
16      separately during the hearing, but I want to say at the  
17      outset, they all hang together. These are deliberate  
18      moves to make some changes that will move the reform  
19      process forward more efficiently, and they all depend  
20      upon one another.

21           So the first one, as you mentioned before, is  
22      the suspension of Paragraph 308. Paragraph 308 has to  
23      do with the timing of the Independent Monitor's reports.  
24      So those reports come out every six months, and the next  
25      report would be coming out in May. Instead, there's not

1 going to be a full Monitor's report in May. The next  
2 full monitoring report will be in November. And in the  
3 meantime, we're going to be changing a little bit about  
4 what the Monitor does.

5 To contextualize this, I would refer to what  
6 Sean Willoughby, the President of the Albuquerque Police  
7 Officers' Association, said back in November. He said,  
8 "We need a reset button." And so after he said that, we  
9 all thought about it. The Monitor really took it to  
10 heart, and he made a proposal to the parties about what  
11 that reset button could look like.

12 So Document 355, which is the stipulation  
13 about Paragraph 308, is the culmination of the Monitor's  
14 proposal. The idea of not having a Monitor's report in  
15 May is to provide an opportunity to shift resources from  
16 monitoring to technical assistance. Technical  
17 assistance is a jargon-ny term, so I'm going to define  
18 it. This is a definition I got from the United Nations  
19 that I thought was very accurate:

20 Technical assistance is non-financial  
21 assistance provided by specialists. It can take the  
22 form of sharing information and expertise, instruction,  
23 skills training, transmission of working knowledge, and  
24 consulting services and may also involve the transfer of  
25 technical data. The aim of technical assistance is to



1 maximize the quality of project implementation and  
2 impact by supporting administration, management, policy  
3 development, capacity building, and so on.

4 That's exactly what we're going to be doing  
5 for the next several months. The reason we had to make  
6 a change in the monitoring methodology was that the  
7 Monitor can't both monitor compliance and provide the  
8 amount of technical assistance that's really needed.  
9 There simply isn't enough of him to go around or enough  
10 of his team to go around.

11 So to keep within the existing budget, we are  
12 shifting the resources from monitoring to technical  
13 assistance.

14 On Page 5 of Document 355 there is a bullet  
15 list of subjects of technical assistance, and those are  
16 -- again, as I mentioned before, this is all very much  
17 tied up with the other filings that have been made. The  
18 technical assistance will go into what the use-of-force  
19 investigation process will look like; the revisions to  
20 APD's use-of-force policy suite; the training programs  
21 that are going to be designed to bring personnel up to  
22 speed on the new use-of-force investigation process.

23 This is the kind of technical assistance that  
24 APD has long needed, and we are so grateful that APD is  
25 receptive to it now.

1           Now, I want to be very clear, moving from  
2     monitoring compliance to technical assistance is a  
3     trade-off. There are things that we lose and things  
4     that we gain. One of the things that DOJ is conscious  
5     of in this context is that a Monitor has to remain  
6     independent and has to assess the agency's efforts in  
7     reaching compliance. When they provide technical  
8     assistance, that's a slightly different role. They're  
9     assisting an agency.

10           And so we get concerned about possibly  
11     undermining the independence of the Monitor because  
12     they're providing assistance that will lead to  
13     compliance efforts that may or may not bear fruit. So  
14     we have talked that over with Dr. Ginger, and we feel  
15     satisfied that he understands the risks and will  
16     maintain, as he always has, his independence and will  
17     always be calling balls and strikes based on the  
18     evidence. So we don't have concerns about that.

19           The much bigger trade-off is that we won't  
20     have a full comprehensive Monitor's report in May, and  
21     so there will be a period from the seventh monitoring  
22     period, which runs from August to January of 2018 --  
23     2017 -- no, I'm sorry, 2018, where there will not be a  
24     Monitor's report that will cover that period. And so  
25     that's a period of compliance that we just won't have

1 information about, going forward.

2 We had talked about some strategies to deal  
3 with that. One is that in the next Monitor's report  
4 coming in November, the Monitor could look at 12-month  
5 samples of information so that we would get some  
6 compliance information for this six-month period that  
7 would have been covered by the May report. We probably  
8 won't do that across the board. We'll select particular  
9 areas where it makes sense to do that. But that's --  
10 that helps.

11 The other thing that gives us some comfort  
12 about losing this May report is the status reports that  
13 the City and the Monitor will be filing, and this is how  
14 this particular filing marries to the City's Compliance  
15 Plan. The City's Compliance Plan lays out in great  
16 detail all of the specific steps that they will be  
17 taking over the next several months to reach compliance,  
18 and they're going to be reporting on their progress in  
19 executing those steps.

20 So it's not that we'll be without information  
21 about what the City is doing. We will have a lot of  
22 information about what the City is doing, more  
23 information from the City than they've given us in the  
24 past. And so that gives us some comfort that we're not  
25 flying blind during these next few months.

1           And fundamentally, we accept these trade-offs  
2     because they're worth it. Right now, the City needs  
3     this type of technical assistance in order to move  
4     forward, and this is the most efficient way to get them  
5     into compliance.

6           I also wanted to mention that the technical  
7     assistance has already begun. The Monitor provided  
8     technical assistance during the week of January 15th.  
9     He has been providing it all this week. Members of his  
10    team will be out in two weeks to provide additional  
11    technical assistance. And our expectation, and I  
12    believe the City's expectation and the Monitor's  
13    expectation, is that after two weeks from now, we'll  
14    continue scheduling technical assistance sessions as  
15    needed, based on the different projects that are  
16    ongoing.

17           So that's what I have to say about the  
18    Paragraph 308 suspension. I'm happy to answer any  
19    questions.

20           THE COURT: I know that you alluded to it,  
21    but the people of Albuquerque have been watching this  
22    process for a while, and when you say we have to hit a  
23    reset button, which we all said -- I think that phrase  
24    was used a lot in November -- the people of Albuquerque  
25    have to understand and believe that this is necessary,

1       that the dollars that were spent up to this point have  
2       not been wasted, and that we're not losing ground by  
3       not having the Monitor's report for this period of  
4       time.

5               If you don't mind, just address yourself to  
6       the citizens of Albuquerque about why -- I mean, I  
7       understand what you said.

8               MR. PAUL KILLEBREW:   Yes.

9               THE COURT:   But maybe in a broader sense, why  
10      this is necessary, why this is worth the time and  
11      effort, and the trade-offs, as you said.

12              MR. PAUL KILLEBREW:   Certainly.   Certainly.

13              I think if we just had the Monitor right now  
14      assessing compliance, he would find some progress for  
15      that six-month period, I hope.   But I think most of that  
16      period occurred under the previous administration, and I  
17      think we knew what their attitude towards this process  
18      was, and as that culminated in the hearing last  
19      November.

20              So right now, I think the thing that is most  
21      valuable to the people of Albuquerque is improvement in  
22      their Police Department, and changes in the systems in  
23      the Department.   Those changes, they are undertaking  
24      tremendous effort and going to great expense to make,  
25      but they need help.   They need the help of nationally

1        recognized policing experts who have solved these  
2        problems before.

3                That's what the Monitoring Team is. The  
4        Monitoring Team is made up of people who are recognized  
5        across the country as being experts in policing, and on  
6        the exact issues that the Albuquerque Police Department  
7        is facing. You can't spend money any better than by  
8        getting those folks to give advice and guidance on how  
9        to build all the systems that are going to be necessary  
10       to foster constitutional policing.

11               After we filed this joint stipulation, we sent  
12       the filing out to our stakeholder and amici community  
13       and had three different meetings with folks to get their  
14       views on this. And on this particular filing, I'm very  
15       pleased to say, everyone recognized that this was a  
16       worthwhile investment and this was a reasonable  
17       trade-off. We had, I would say -- I'm racking my brain  
18       to remember if anyone objected to what we were doing. I  
19       don't recall anyone having a problem with it. I think  
20       everyone saw that right now what the City needs is the  
21       counsel, advice, and guidance of the Monitor Team.

22               THE COURT: I appreciate the extra comments.  
23       Thank you.

24               Mr. Schmehl, do you have the ball for the City  
25       at this point?

1 MR. PAUL KILLEBREW: Thank you, Your Honor.

2 THE COURT: Yes, sir. Thank you, Mr.

3 Killebrew.

4 MR. JERAMY SCHMEHL: Your Honor, thank you  
5 for this opportunity to address this filing.

6 I think the best way I can begin the framing  
7 of it is to go back to -- I believe it was either the  
8 19th or 20th of December, and Mr. Ginger, or Dr. Ginger,  
9 rather, presented his proposal, and there was a brief  
10 pause, with the question being asked, "What do you  
11 think? Does this sound good?" And the City's response  
12 was, "Yes."

13 So the City stands fully supportive of this  
14 approach, moving forward. As Mr. Killebrew spelled out,  
15 it's going to afford an opportunity to get some  
16 assistance, needed technical assistance from the experts  
17 in the Monitoring Team, and I think that he has done a  
18 good job of capturing that and explaining that to the  
19 Court and everyone here today.

20 What I want to focus on, as well, is the  
21 City's obligation. And the City's obligation under this  
22 is not to disappear; it's not to rest on its laurels;  
23 it's to provide reports. And it's spelled out, the  
24 first one coming out June the 1st, and the second one  
25 coming out August 31st.

1                   And those reports are going to talk about  
2                   what's happening, you know, giving real reports to the  
3                   community for the first time, from the City's  
4                   perspective, about what's working, what's not working,  
5                   as the Compliance Plan spells out who's responsible for  
6                   making it work. And those types of things are first.

7                   And Your Honor very clearly ordered, the last  
8                   time we were in court, in November, that that needed to  
9                   happen. And that filing was made yesterday, on the eve  
10                  of this hearing today.

11                  And so in that vein, to get that conversation  
12                  started, as Mr. Killebrew explained, we had meetings  
13                  with the amici. We explained the stipulations. And  
14                  that's the beginning of those conversations. What's  
15                  going to happen moving forward? There's a commitment  
16                  from the City and the Department, approximately every  
17                  six weeks or whatever interval makes sense to those  
18                  amici, we're going to sit down and talk to them. We're  
19                  not going to wait until the eve of the hearing, whether  
20                  it's the one in November, the one in November the prior  
21                  year, to learn about problems. We're going to have very  
22                  real conversations and engage in a dialogue, rather than  
23                  a monologue that just simply hasn't been working. And  
24                  the City is committed to that, and the Department is  
25                  committed to that.



1           And I also think the Compliance Plan really  
2       overlays on top of this whole restart, refresh,  
3       recharge, way forward, whatever anyone wants to call it.  
4       And I think it's a perfect overlay because it brings  
5       structure to those communications. You're talking about  
6       those areas of deliberate non-compliance that were very  
7       clearly spelled out in the Compliance Plan, and the  
8       first five areas, you know, many of them center around  
9       resources, use of force, the Implementation Unit. And  
10      then those concerns were raised by the amici, dating  
11      back to the action plan that was filed with the Court, I  
12      believe Documents 315 and 319.

13           So this joint stipulation certainly represents  
14      an opportunity to step back and assess and figure out a  
15      way forward. But what the City is taking this as is an  
16      opportunity to do that, but also speak to the community,  
17      talk to them about the challenges and problems, and  
18      actually get their input and ideas and concerns so that  
19      this reform effort reflects what it should be, that it's  
20      a collaborative effort to bring constitutional policing  
21      to the City of Albuquerque.

22           That's it, Judge, unless you have some  
23      questions for me. I'm happy to answer them.

24           THE COURT: I don't think so at this point,  
25      Mr. Schmehl, but I want to just the alert amici --

1       they're going to address the Court at some point in the  
2       afternoon. We're hearing some representations about  
3       your involvement in this reset and in signing off or  
4       not. I want to hear from you about your thoughts on  
5       the reset, on this way forward, as it's been described  
6       by the Doctor. So thank you.

7               And I think we'll hear from Mr. Mowrer.

8               MR. JERAMY SCHMEHL: Thank you, Your Honor.

9               THE COURT: Yes, sir.

10              MR. FREDERICK MOWRER: Good afternoon, Your  
11      Honor. Thank you for the pleasure of being able to  
12      address the Court.

13              Your Honor, the APOA believes -- since we're  
14      using the term, I'll continue to use it -- a reset  
15      probably was appropriate at the time that button was  
16      pushed. As the Court knows, many, many years ago, it  
17      seems like a long time ago, the APOA took the position  
18      that this process was moving too fast and that we were  
19      missing things that needed to be addressed. I think  
20      that reset has now been hit. I think that the  
21      monitoring program as dictated in 355 probably does need  
22      to be changed to allow the Monitor to switch focus, so  
23      instead of providing another report where he documents  
24      the things that aren't working, that he can provide  
25      technical assistance not only to the City, but to the

1 employees of the Albuquerque Police Department, to show  
2 them changes that would probably be helpful for all  
3 concerned. And the APOA adopts that.

4 The APOA believes that the reset is necessary.  
5 In light of the other changes that are also being  
6 proposed to the Court, it only makes sense to save  
7 resources, because they are finite in nature, to save  
8 those resources, apply them in a different way, use the  
9 technical assistance that the Monitor and his team can  
10 provide to not only the City, but also to the members of  
11 the Association, and teach us a way forward that makes  
12 better sense. Because the way we were going did not  
13 appear to me, I think, and to the Union at many times,  
14 to be moving forward at a pace that made any sense.

15 So we wholeheartedly adopt this proposed  
16 change to Document 355 or Paragraph 308 of the CASA.

17 THE COURT: Mr. Mowrer, thank you. It occurs  
18 to me, though -- and if it was addressed, I missed it.  
19 We've talked about the meeting that we went to in  
20 Ft. Worth. Have other Monitors around the country, in  
21 the other eight Consent Decree programs, ever been  
22 called upon to provide the technical assistance to make  
23 this sort of transitional step?

24 MR. FREDERICK MOWRER: Your Honor, I'm not  
25 aware that they have been, but I'm speaking from just

1 my vague impression of how these Consent Decrees have  
2 gone. But I think this may be the first one where the  
3 parties have sat down and agreed to change focus in the  
4 middle of the process, to try and effectuate change.

5 THE COURT: And I understood your exposure to  
6 it might be different. But Mr. Killebrew or Mr.  
7 Schmehl, can you address my question?

8 Thank you, Mr. Mowrer.

9 MR. FREDERICK MOWRER: Thank you, Your Honor.

10 MR. PAUL KILLEBREW: Certainly, Your Honor.  
11 Thank you.

12 We -- I believe Paragraph 305 of the CASA  
13 explicitly provides that the Monitor can provide  
14 technical assistance. That's in there because it's our  
15 experience in these policing and Consent Decree cases  
16 that technical assistance is often necessary. The scale  
17 of it can be very, very small; or, as here, very large.  
18 And so we remain open to the idea that the Monitor may  
19 be able to provide technical assistance.

20 There has actually already been some technical  
21 assistance provided in Albuquerque. Stephen Rickman,  
22 who is on the Monitoring Team, has provided technical  
23 assistance to the City to help get the Community  
24 Policing Councils established, and he provided training  
25 to the members of the Community Policing Councils that

1        was incredibly effective. So it is fairly common in  
2        these cases to have the experts and the Monitoring Team  
3        provide this technical assistance.

4                In terms of the shift that we're making,  
5        though, of substituting technical assistance for  
6        monitoring for a brief period, I'm not aware that we've  
7        done that before. The closest parallel that I can think  
8        of is what we've done in Puerto Rico, where the  
9        beginning of that process is not monitoring compliance;  
10       it's capacity building.

11               There is a, I believe, four- or five-year  
12       capacity building period where the entire focus is just  
13       on establishing the basic infrastructure, both in terms  
14       of policy and technology and all the basics within the  
15       Police Department there, before we even start measuring  
16       compliance. And the Monitoring Team is very much a part  
17       of establishing those systems.

18               And so it's just a recognition that there are  
19       conditions sometimes where the way everyone needs to be  
20       spending their resources is on developing the agency's  
21       capacity, and I think that's largely where we are with  
22       APD right now. The DOJ, the Monitoring Team, the Union,  
23       the City, we're all engaged in a collaborative effort to  
24       build capacity within APD and build the systems that  
25       will lead to compliance.

1           THE COURT: Thank you. And I think I really  
2 do appreciate the insight, and I bet those here do, as  
3 well. But this isn't starting from scratch with  
4 something. And the fact is, Consent Decrees, I've  
5 learned recently, look a lot alike from one  
6 jurisdiction to another. They all come from the  
7 Department of Justice at some point. And so this  
8 built-in allowance for technical assistance finds  
9 itself in most of them, I guess.

10           MR. PAUL KILLEBREW: Yes, that's right.  
11 There are provisions of the Consent Decrees that look  
12 very similar to one another, and those are typically  
13 the process-related ones, the ones that have to do with  
14 the monitoring process. And that's because we have now  
15 about 25 years of experience doing this work and  
16 working with Monitors, and we've learned some things.  
17 And one of the things we've learned is about sometimes  
18 you've got this team of experts that is sitting right  
19 there. Why can't we use them as a resource? It's an  
20 obvious thing that we want to do.

21           THE COURT: Good. Well, thank you for the  
22 insight.

23           MR. PAUL KILLEBREW: Thank you, Your Honor.

24           THE COURT: Dr. Ginger, do you want to be  
25 heard on this topic?

1 DR. JAMES GINGER: Yes, sir, if you don't  
2 mind.

3 THE COURT: Of course not.

4 DR. JAMES GINGER: As the Court knows, I've  
5 been involved in these monitoring projects since the  
6 early 2000s. I've been a student of and participating  
7 in projects since that point in time. There have been  
8 numerous occasions where there has been a change to the  
9 administration in a location where there's a monitoring  
10 project underway. But to my knowledge, we've never had  
11 the confluence of events, the change of administration  
12 and an earlier administration that was so resistant to  
13 change, as we've had here.

14 So as a result, we provided what will in  
15 effect be virtually the same amount of technical  
16 assistance to the APD in the first two years of this  
17 project. We budgeted for it. We provided it. It  
18 wasn't accepted, I guess. It wasn't used. So what  
19 happened, then, with the change of administration, we  
20 have a long-lived Settlement Agreement and a new  
21 administration that has not had the benefit of that  
22 previous technical assistance.

23 So that's why I developed the Way Forward  
24 Plan, because I recognized that this Police Department,  
25 this new Police Department as configured today, had not

1        had the benefit of the earlier technical assistance, but  
2        they still had the same problems that confronted the APD  
3        the first day we walked on the job.

4                So historically, that had never happened  
5        before, so we needed to design something relatively new,  
6        relatively efficient, and very effective. And  
7        hopefully, that's what we've done. And it will allow us  
8        to continue our responsibilities without asking for more  
9        money, and it will allow the City to continue to grow  
10       its responses without paying for additional technical  
11       assistance to the Monitoring Team So we've tried to hold  
12       the budget at the same level; and yet, give APD what it  
13       needs in terms of our insight into what's happening and  
14       what needs to happen.

15               THE COURT: Thank you, Doctor.

16               On the notion of the Compliance Bureau that  
17       the City is in the process of standing up, a couple of  
18       questions. One, have you been involved with this work  
19       in any jurisdiction where the administration, the City  
20       administration and the Police Department actually had a  
21       Compliance Bureau or stood one up?

22               DR. JAMES GINGER: 100 percent of the ones  
23       I've been involved in had it. Usually on my first  
24       visit, the Chief Executive Officer of the Police  
25       Department and I sat down and had a long conversation



1       about how this process is going to work. We present  
2       them with our relatively detailed methodology of how  
3       we're going to do our job. And we, the Monitoring  
4       Team, make a recommendation to that Chief Executive  
5       that they consider the development of the  
6       Implementation Division or Bureau or whatever it turns  
7       out to be labeled. And it always comes to a different  
8       name because people like to change that up. They don't  
9       like to follow in lock-step with other Police  
10      Departments.

11               So I have been involved with -- I was the  
12      Monitor in Pittsburgh, I was involved in the LAPD  
13      process, and I was the Monitor for New Jersey State  
14      Police, and all three of those organizations, as a first  
15      step, developed the equivalent of a Compliance Bureau.

16               APD chose not to do that, against our advice.  
17      But the choice was made. And we were still required to  
18      monitor progress, which as you well know we did for  
19      quite some time. But now we find the Police Department,  
20      through no fault of its own, through no fault of its  
21      current leadership, who has been lacking a Compliance  
22      Bureau for almost three and a half years now, and that's  
23      a serious delay in the usual process.

24               So what I tried to do with this Way Forward  
25      Plan was to compensate for that, so that you could stay

1 reasonably on schedule; and yet, not deprive APD of the  
2 knowledge and technical assistance they needed.

3 THE COURT: So did your provision of  
4 technical assistance extend to the standing up of the  
5 Compliance Bureau? And as I understood the whole point  
6 of a Compliance Bureau, it's ultimately the Police  
7 Department can measure its own progress and can  
8 continue to measure its progress against norms that we  
9 all agree ought to be in place long after you're gone  
10 or long after I'm gone.

11 And that's the deal, right?

12 DR. JAMES GINGER: Correct.

13 THE COURT: So I know earlier on, you had a  
14 hard time getting data that you could use in developing  
15 your reports. The Compliance Bureau will be giving you  
16 that data, right?

17 DR. JAMES GINGER: Correct.

18 THE COURT: So are you providing them  
19 technical assistance? Is that part of this reset?

20 DR. JAMES GINGER: Yes, Your Honor, it  
21 absolutely is. I've been here all week, and I've spent  
22 the vast majority of my time with personnel from the  
23 Compliance Bureau, and the team has spent a great deal  
24 of time with folks from the Training Academy, which  
25 were the two major weaknesses we identified, other than

1 supervision, in our monitoring, earlier monitoring  
2 reports.

3 So we've been laser focused on making sure  
4 that Chief Garcia has the knowledge and understanding  
5 and even the personnel support, the people to do the job  
6 that that Compliance Bureau is charged with.

7 THE COURT: Do they have any Harry Potters  
8 over there?

9 DR. JAMES GINGER: They do, Your Honor,  
10 although I have to say that this would be a Harriette  
11 Potter.

12 THE COURT: Fair enough. Fair enough.  
13 Anything else, Doctor?

14 DR. JAMES GINGER: No, sir.

15 THE COURT: At this point?

16 DR. JAMES GINGER: No.

17 THE COURT: Thank you. Thanks very much.

18 Well, Mr. Killebrew, you're back up. Have you  
19 got a spring in your chair? We'll be talking about the  
20 stipulation modifying CASA use-of-force provisions, and  
21 this is Document 354. I'll hear you.

22 MR. PAUL KILLEBREW: Thank you. Thank you  
23 very much, Your Honor.

24 Yes, while Document 354, which is the joint --  
25 the brief that explains the modifications as to use of

1 force -- and I apologize that we made some mistakes in  
2 the attachment to that document, which is the red line  
3 that shows the changes to the CASA, and we filed an  
4 errata, which is Document 356-1, that shows the correct  
5 changes. And I apologize for that oversight and take  
6 responsibility for them. But 356-1 we have checked  
7 quite thoroughly, and it is the correct document.

8 So what this is about is the central issue of  
9 this case. The most intractable problem in this reform  
10 effort is getting APD to the point where it can identify  
11 and appropriately address unconstitutional uses of  
12 force. That's why DOJ opened an investigation of the  
13 Police Department. That's why we have a Consent Decree.  
14 That's why we've had six Monitor reports, a special  
15 report, and an outcome assessment report, all critical  
16 of the APD's ability when it comes to recognizing our  
17 policy and unconstitutional uses of force.

18 This is the problem we are here to solve, and  
19 we don't leave until we solve it.

20 So what we have seen across all of the reports  
21 is that the systems that APD had set up simply were not  
22 working. And there are a number of causes for those  
23 failures, but it brought to light that we needed to  
24 rethink how we were tackling the problem in light of  
25 what we were seeing from the process failures of APD.

1           So around July of 2017, we started having  
2       discussions among the parties and the Monitor about  
3       different approaches, and we thought about: Are there  
4       things that we could do, that would stay within the  
5       confines of the CASA, that might get us there faster?  
6       Or do we need to start putting on the table changing the  
7       CASA in order to get better systems set up?

8           Along those discussions, one of the things we  
9       recognized was that supervisors at APD were simply  
10      having an incredibly difficult time appropriately  
11      investigating uses of force. And the CASA, as  
12      originally set out, gave supervisors, the first-line  
13      supervisors, the sergeants, extensive responsibilities  
14      when it came to uses of force.

15           For most uses of force, the supervisor is  
16      supposed to show up at the scene and conduct a full  
17      investigation of the entire incident, write up a full  
18      investigation report, and send it up through their chain  
19      of command. And, as the monitoring reports detail,  
20      those investigations -- there was a great variability in  
21      the quality of those investigations. And as a system,  
22      we had to recognize that relying on supervisors for this  
23      function was not going to solve our use-of-force  
24      problem. They simply did not have this ability to get  
25      these investigations done right.

1           The other thing we saw was that APD had  
2           created a Centralized Unit to investigate the most  
3           serious uses of force, and that unit was  
4           professionalizing, and its investigations were gaining  
5           in quality and consistency.

6           So as we discussed how to handle the use-of-  
7           force problem, and really the use-of-force investigation  
8           problem, we thought maybe it makes sense to diminish the  
9           role of supervisors and expand the role of the  
10          Centralized Unit. So that is essentially where we  
11          landed.

12          I should say also, the supervisors -- it's not  
13          fair to just say they didn't, you know, they didn't know  
14          how to do good investigations. They were not given a  
15          policy that was a model of clarity. They were not given  
16          training that really explained to them what they needed  
17          to do. And we simply didn't understand the workload and  
18          the strain that was going to put on them, to have to  
19          conduct all of these investigations. So essentially, we  
20          just didn't set them up for success.

21          But going forward, we realized that having a  
22          Centralized Unit with responsibility for more force  
23          investigations would make it easier to assess when  
24          there's a problem with those investigations and correct  
25          them. Because it's one unit, and you can have much

1 tighter command and control over this one Centralized  
2 Unit than you can over an entire agency of supervisors.

3 So the system we set up was moved into what  
4 we're calling Level 1, Level 2, and Level 3 uses of  
5 force.

6 Level 1 uses of force are non-injury force.  
7 There is no actual injury. There is no complaint of  
8 injury. These are the very, very minor uses of force.  
9 A good example would be when someone is being handcuffed  
10 and they tense or move their arms to resist being  
11 handcuffed, and the officer has to use physical effort  
12 to bring their hands together and handcuff the person.  
13 That officer is using physical force to overcome  
14 resistance, and so it qualifies within the meanings,  
15 within the definitions of the CASA and the Fourth  
16 Amendment, as a seizure as force.

17 But that is a very low level kind of that's  
18 not -- there hasn't been an injury. It just needs to be  
19 addressed and made sure it was appropriate, but it's not  
20 as serious, obviously, as something like an officer-  
21 involved shooting or a taser.

22 So for that very low-level use of force, the  
23 officer who uses force would still call their supervisor  
24 out to the scene. The supervisor will show up, talk to  
25 the officer, talk to the subject if they're willing, any

1 other witnesses who may be there, and they have the  
2 capability to immediately play back the body-worn camera  
3 footage of the incident on their cellphones, right there  
4 on the spot.

5 And so the supervisor can make an assessment  
6 about: Was this actually a Level 1 use of force, or was  
7 it more serious?

8 If it was just a Level 1 use of force, then  
9 the responsibility is on the officer to document the  
10 force they used and the circumstances that led to it, to  
11 put that into a use-of-force report, and they have to do  
12 that by the end of the shift. The supervisor will then  
13 review that report, make sure that the force used was  
14 appropriate. If it wasn't appropriate, then the  
15 supervisor needs to address that. Assuming it was, the  
16 supervisor will then send that report up his chain of  
17 command or her chain of command within the district that  
18 they work in.

19 After it's been approved all the way through  
20 the chain of command, up through the commander, it will  
21 go to a Central Unit called the Performance Review Unit  
22 that is going to be looking at every single Level 1 use  
23 of force across the Department. And their function is  
24 essentially quality assurance. They're going to be  
25 looking at the package and making sure that it meets APD



1 standards of quality, and also making sure that the use  
2 of force was appropriate. So it's another layer of  
3 review.

4 That unit can also be collecting data on  
5 Level 1 uses of force so that they can identify trends.  
6 And so if they see a spike in one form of force, they  
7 can identify if there's something going on that we need  
8 to address through a policy change or through training.

9 So that's how Level 1 uses of force would be  
10 handled. Again, it's force that does not lead to an  
11 injury or complaint of injury, so it's at the very, very  
12 low end.

13 Anything that results in an injury --

14 THE COURT: Mr. Killebrew, before you go on  
15 to Number 2 --

16 MR. PAUL KILLEBREW: Yes.

17 THE COURT: I'm sure it's here somewhere, but  
18 I can't find the PRU on the APD or the OC. There's an  
19 acronym for everything here. But where is the PRU on  
20 the organizational chart? I'm trying to track. The  
21 supervisor in the field makes the report, and it goes  
22 to PRU.

23 Mr. Schmehl.

24 MR. JERAMY SCHMEHL: Yes, Your Honor. That  
25 will be housed in the Compliance Bureau, so that

1 Performance Review Unit would be -- and I don't know  
2 that the organizational chart is going down to that  
3 level, that breakout level. So it's not spelled out on  
4 that, but we certainly can get one that breaks it down  
5 into divisions and sections and whatnot so it's more  
6 clear. But that will be housed within the Compliance  
7 Bureau.

8 THE COURT: Okay. So under Compliance  
9 Bureau, or associated with it, Compliance Division,  
10 Behavioral Health and Crisis Intervention. But is it  
11 under the Compliance Division? Is that where I find  
12 it?

13 MR. JERAMY SCHMEHL: Yes, Your Honor.

14 THE COURT: Everybody is shaking their head.  
15 Okay.

16 MR. JERAMY SCHMEHL: Yes. And like I said,  
17 Your Honor, we can provide a breakout of that with more  
18 detail, because I think that's a very good question,  
19 and it's just an oversight on those organizational  
20 charts. It's just sort of a higher level org chart.

21 THE COURT: Well, great. I appreciate the  
22 insight.

23 MR. JERAMY SCHMEHL: Thank you.

24 THE COURT: I didn't mean to interrupt you.  
25 Go ahead.

1 MR. PAUL KILLEBREW: Oh, no. Thank you, Your  
2 Honor. All right. So Level 2 uses of force is force  
3 where there is an injury. And Level 3 force obviously  
4 results in injury. But Level 2 is essentially an  
5 intermediate level of force, and this would include  
6 like a tasing or the use of an impact weapon.

7 And Level 2 uses of force, as soon as it  
8 happens, the officer calls their supervisor. The  
9 supervisor comes out to the scene, again, to make sure  
10 that it's correctly categorized. And then they call a  
11 Centralized Unit, which will be called a Force  
12 Investigation Section. And the Force Investigation  
13 Section, perhaps we should go ahead and clarify where it  
14 will be housed.

15 THE COURT: I found it on Administrative  
16 Support Bureau. Is that right? Force Investigation  
17 Team.

18 MR. JERAMY SCHMEHL: That's correct, Your  
19 Honor. Well, actually, that would be Force  
20 Investigation Section, and then within that section you  
21 have those investigations. So then you'd have, of  
22 course, the division above the section, but it would be  
23 in that administrative chart.

24 THE COURT: Okay. I think I've got that one  
25 located.

1 MR. PAUL KILLEBREW: Okay. So the Force  
2 Investigation Section handles the investigation from  
3 all Level 2 and Level 3 uses of force. There is an  
4 equivalent division right now that looks at what has  
5 been called serious uses of force, and serious uses of  
6 force is equivalent to a Level 3 under this new system,  
7 Level 3 use of force.

8 So they'll be looking at more kinds of force,  
9 as I said before. Level 2 is where we're taking uses of  
10 force that supervisors used to investigate and giving  
11 them to the Force Investigation Section. The Force  
12 Investigation Section will be conducting the thorough  
13 kinds of investigations that we've seen already for  
14 serious uses of force and the kinds of investigations  
15 that we had expected supervisors to be carrying out, but  
16 that we weren't seeing by and large.

17 So Level 2 and Level 3 will be the same thing.  
18 Level 3 is, again, equivalent to serious uses of force.  
19 When it happens, the officer calls the supervisor, who  
20 comes to the scene, makes sure it was correctly  
21 categorized. And then the supervisor calls the Force  
22 Investigation Section, and they will come and take over  
23 the investigation.

24 So the advantages to us under this system are  
25 that if there is an issue in how the Force Investigation

1 Section is conducting its work, it's much easier to  
2 correct.

3 And the parallel I would draw here would be to  
4 the SWAT Team. Part of the reason the SWAT Team came  
5 into compliance so quickly was that you had very direct  
6 command and control. It's a unit that has to be  
7 responsive directly to their chain of command. It's a  
8 relatively small unit, and when that commander orders  
9 policy changes or orders training, he knows very quickly  
10 whether or not that has happened, and he can hold the  
11 members of that unit accountable if they're falling down  
12 on the job, and he can do it quickly.

13 And that's what we're looking for under the  
14 Force Investigation Section, for that sort of very  
15 direct, very clear management.

16 So it's our hope that this will -- it is our  
17 expectation that this will improve force investigations.  
18 Again, there are trade-offs to this change. There are  
19 things we give up and things that we gain.

20 And the trade-off here is what's happening  
21 with Level 1 uses of force. Those, before, would have  
22 been subjected to a full supervisory investigation. And  
23 now, we're relying on the officer to document their use  
24 of force correctly, to explain in writing why they used  
25 force; and we're relying on supervisors to review that

1 information and make sure it's all correct and meets the  
2 standards of quality in the agency. This gives me some  
3 trepidation. I'll be honest.

4 When we were investigating APD and reviewing  
5 use-of-force reports, we found that officers often  
6 failed to adequately describe the force that they used.  
7 The language they used, you couldn't tell what they had  
8 done. And they failed to adequately describe why they  
9 used force. They didn't explain what the threat they  
10 perceived was. They didn't explain if there were  
11 circumstances there that led to the use of force. And  
12 so there were some reports that we simply just couldn't  
13 use in the investigation because there wasn't enough  
14 detail or information there for us to make an  
15 assessment.

16 So under this new system, here's the scenario  
17 I'm worried about. An officer uses force, documents it  
18 poorly. A supervisor signs off on it anyway, and it  
19 goes up through the chain of command, and then  
20 eventually it lands with DOJ and the Monitor. And we  
21 look at this thing and we say, "How could this possibly  
22 have gotten through APD's systems? You just can't even  
23 tell what happened in this incident."

24 So that is my concern, that that's what's  
25 going to happen. I've alerted the City and APD to that

1 concern. What we expect to happen is that they will  
2 provide better training to line officers and to  
3 supervisors about what these use-of-force reports need  
4 to contain; and the level of detail that officers need  
5 to be using when they describe the force that they're  
6 using; and that this review unit is going to truly audit  
7 each of those reports and make sure that they get sent  
8 back for correction when something isn't going right.

9 And that send-back from that Centralized Unit  
10 is looking at all the Level 1s, and that doesn't just go  
11 to the line officer who didn't write up the force report  
12 correctly. It has to go back down through that chain  
13 of command. Because if the Force Review Unit is  
14 catching it, that means that the commander didn't catch  
15 it, the lieutenant didn't catch it, the sergeant didn't  
16 catch it. All those folks have to get into the practice  
17 of making sure that these reports are of adequate  
18 quality.

19 I think this trade-off and this risk is worth  
20 it, primarily because of what's happening to Level 2  
21 uses of force. These will now be going to the  
22 Centralized Unit instead of being investigated by  
23 supervisors. I expect there to be an immediate increase  
24 in the quality of those kinds of investigations, which  
25 is what we need to see.

1           So we expect higher quality investigations.  
2       We expect to see accurate findings. We expect to see  
3       APD holding its officers accountable. And we expect to  
4       see an elimination of the pattern of unconstitutional  
5       uses of force. That's what we're here to do, and we're  
6       not going to leave until that has happened.

7           And, Your Honor, with that, I'll take any  
8       questions that you may have.

9           THE COURT: Well, an obvious question and  
10      concern is, you're relying on the officer that has just  
11      used force to self-report.

12           MR. PAUL KILLEBREW: Yes.

13           THE COURT: And I see a potential concern  
14      there.

15           MR. PAUL KILLEBREW: Yes.

16           THE COURT: If he's responsible for  
17      initiating the process, maybe the process doesn't get  
18      initiated at all. And I'm interested in hearing from  
19      Mr. Mowrer on behalf of the Police Union and the City  
20      in terms of why this isn't the concern that it seems to  
21      me. So they either don't report, or they under-report,  
22      and the supervisor can check this on the basis of the  
23      body cam.

24           MR. PAUL KILLEBREW: Yes.

25           THE COURT: If that's been appropriately used



1 and preserved.

2 MR. PAUL KILLEBREW: Yes.

3 THE COURT: But there's a couple of problem  
4 areas there we've already experienced, getting to this  
5 point.

6 MR. PAUL KILLEBREW: Yes.

7 THE COURT: So I understand. You've  
8 expressed the concern. I share it. We'll see how that  
9 goes forward.

10 MR. PAUL KILLEBREW: Yes. I will say, in  
11 just responding to this concern about unreported force,  
12 I thought about that in preparing my remarks today, and  
13 I didn't add it, mainly because that's an existing  
14 risk. This new system doesn't change that risk.

15 And the way that we've decided to address that  
16 risk, which we all recognize and have actually seen  
17 played out, is that we have the whole host of systems  
18 that are set up to identify when this is happening, at  
19 least some of the time. The supervisors are doing  
20 random reviews of body camera footage on a regular basis  
21 for each of their subordinates, and if they see  
22 unreported force through that, they can then look into  
23 it.

24 Not reporting force is misconduct, and an  
25 officer would be -- the expectation is that an officer

1 would be held accountable for failing to report force.  
2 The individual who is the subject of the force could  
3 file a civilian complaint, and the Civilian Police  
4 Oversight Agency could then conduct an investigation.

5 And I believe that APD is also looking into  
6 enhancing its video review so that there's more video  
7 review that's being conducted within the agency. They  
8 don't want to put all the weight on the supervisors to  
9 do it, but they're looking into the possibility of  
10 having a unit looking at video more regularly.

11 So those are a number of things that we do to  
12 address unreported force, but it is a problem and it's  
13 something that we all take really seriously. And to  
14 catch it, we'll be addressing it.

15 THE COURT: Thank you.

16 MR. PAUL KILLEBREW: Thank you, Your Honor.

17 THE COURT: Mr. Schmehl, as a part of your  
18 remarks, you might alert everyone to kind of a new  
19 policy about body cam footage, and the new  
20 administration is more open about sharing that, and you  
21 might talk about that some.

22 MR. JERAMY SCHMEHL: Certainly, Your Honor,  
23 and thank you.

24 I want to first address the confusion that was  
25 my fault about the organizational chart. These changes

1 are so new. They are proposed changes, as they are set  
2 out in the document there, the amended Settlement  
3 Agreement. So when we're talking about the Performance  
4 Review Unit and the Force Investigation Section, the  
5 investigators, those are bureaucracies that are being  
6 staffed up and considered, and then those will be  
7 brought to an organizational chart that more clearly and  
8 definitively spells out what that will look like. So I  
9 just want to let you know that that was the case. This  
10 is a situation of us improving and growing, and that's  
11 why there was that confusion.

12 I want to talk about -- because I think  
13 Mr. Killebrew did a really good job of going over the  
14 levels of force; the investigative response to Level 2  
15 or Level 3 force; and then the review that would happen  
16 after a Level 1 force incident took place.

17 I want to focus in on what I perceive -- what  
18 the City perceives to be the issues, you know,  
19 developing the policy and the training, those types of  
20 things. But actually, before I do that, I want to take  
21 just a step back and say that this was brought to the  
22 table. Certainly there were a lot of conversations in  
23 the Department, all the way down to the point where last  
24 night at the CPC summit, I was having a conversation  
25 with an attendee, and he was aware of all of the

1 problems with the former -- well, hope to be former --  
2 force reporting and investigation system, particularly  
3 the burdens placed on supervisors.

4 The Union, particularly Mr. Willoughby, played  
5 a very central role in bringing this to the table, a  
6 draft proposal of the system, and what now is the  
7 language in the amendments to the Settlement Agreement  
8 were presented. And that was really what got the ball  
9 formally rolling because these conversations have been  
10 happening, as I said, all the way down to community  
11 members, certainly in the Department, and now the City  
12 is very happy to see them as part of this new change  
13 process.

14 So the challenges. The challenges are going  
15 to be, as Mr. Killebrew said, one challenge, and what he  
16 said was: Well, what about the unreported force? Where  
17 are you going to find it? It is an expected risk, where  
18 something happens in a system, where people are expected  
19 to report force.

20 With this new approach, there's an ability to  
21 centralize the thought around looking for that. There's  
22 an ability to say: Well, let's pull reports where  
23 there's resisting arrest. Let's pull reports where  
24 there's assault on a police officer, or battery on a  
25 police officer, and let's start looking for it.

1           In the old system, in the sort of scattered  
2   approach, there wasn't a centralized way to start to  
3   look at those issues and to start to think about that  
4   data and the reports, to address the problem and find  
5   the report or even when it hasn't been reported. So I  
6   think that's important, to think about it.

7           And the centralization of force reporting  
8   investigations also brings to it a standardization to  
9   the investigation, and I think that is very, very  
10   critical. If you picked up any of the Monitor's  
11   reports, you'll see that as a consistent, persistent,  
12   and accurate critique of what is happening in force  
13   reporting and investigations -- and now, particularly,  
14   like I said, the investigations.

15           What does right look like? You know, when you  
16   look at certain paragraphs -- for instance, the  
17   obligation on an officer who uses the force, you know,  
18   to describe the contact, the force, all those types of  
19   things. Well, what is a sufficient depiction of those  
20   things from an eye that is lending scrutiny to that  
21   investigation? Then when you move to considerations of  
22   that investigation, all the way down to what is an  
23   adequate canvass for witnesses, making sure from just  
24   the lowest level that you're writing down the names and  
25   addresses of witnesses.

1           So this new system will allow for a very  
2       focused consideration when you're talking about the  
3       Level 2 or 3 use of force, on making sure that the  
4       product is going to meet the requirements and, really,  
5       the standards set by the Settlement Agreement, and  
6       lending something to the conversation of what should  
7       that be, to the development of forms that are more  
8       efficient.

9           There is a blank sheet approach right now --  
10      Dr. Ginger has talked about that -- which is, you know,  
11      it's just really difficult for you to go in and look at  
12      that investigation and say, "This meets scrutiny," or  
13      "This fails to meet scrutiny." So there is an emphasis,  
14      I believe, moving forward, on being able to address  
15      those concerns in a very central, focused way.

16           The other thing is the training. You're going  
17      to be able to provide the training in that same way.  
18      You're going to have a smaller span of control. Right  
19      now, these use-of-force investigations are under  
20      supervisor level, so what would be akin to a Level 2 are  
21      being done across six area commands.

22           So given the vast confusion around, really,  
23      the policy, the inadequacies in the training, and then  
24      the product coming out of it, it is across the board to  
25      the point where there are conversations across different

1 area commands, saying: Well, no, I think it should be  
2 this way, or this way, or this way.

3 So that's going to be addressed by the new  
4 force reporting investigation approach considered by  
5 this stipulation and the attached document.

6 And I almost think that's another risk. What  
7 do you do if something -- the way I would phrase it is,  
8 something that wasn't supposed to make it through, it  
9 makes it through. I think that's a system of  
10 accountability that you have to create.

11 So we're talking about a 95 percent  
12 expectation of compliance. Certainly everyone would  
13 like for it to be 100 percent, but we're dealing with  
14 human factors. That whole system, when it starts with  
15 the Force Investigation Section investigator, or when  
16 it's a Level 1, where it's a review in the field, they  
17 have to be held accountable.

18 And that's the reason why the review of this  
19 work is being done within the Compliance Bureau, to lend  
20 more of an eye to an audit or a review that's outside of  
21 what created it. And I think that's crucial to take  
22 into consideration, because as it stands, that doesn't  
23 exist. And I believe that if it did exist, it should be  
24 in that way. It shouldn't be something that's part of  
25 the system creating it, to scrutinize it and say it is

1       sufficient or not.

2               This approach also does away with, in my  
3       opinion, for the most part -- certainly serious use of  
4       force is still a consideration, but it treats force,  
5       whether it's a Level 2 or a Level 3, the more -- the  
6       higher level force that's likely to lead to either  
7       injury or serious injury, the same. And that was  
8       already the reality of these provisions in the  
9       Settlement Agreement.

10              There was an immense amount of confusion that  
11      when I'm involved in a field use of force where it's  
12      something that causes a low level of injury or a lower  
13      level of injury, it's somehow different than a serious  
14      use of force. Force is force. What's important about  
15      it is how it's reported; how it's investigated; and how  
16      officers, whether it's in that review, the chain of  
17      command, or whether it's in the Force Investigation  
18      Section, and those investigators, through that chain of  
19      command, are held accountable for the product, and then  
20      an officer is held accountable to the standard of  
21      constitutional policing.

22              And, Your Honor, you asked a question at the  
23      beginning, and I'd like to answer that and any other  
24      questions you have. Otherwise, I think I've summarized  
25      the City's position on these considerations.



1 THE COURT: Thank you.

2 MR. JERAMY SCHMEHL: Thank you, Your Honor.

3 THE COURT: Mr. Mowrer?

4 MR. FREDERICK MOWRER: Thank you, Your Honor.

5 I would like to first of all thank the City  
6 Attorney for giving credit to APOA President Willoughby  
7 and Vice-President Montgomery for helping lead this  
8 change. We realized early on that the force reporting  
9 system that was being used was not working.

10 Probably the biggest problem that we noticed  
11 and wanted the changes that we pushed for, and I think  
12 is now implemented, is that supervisors in the field  
13 need to be supervisors in the field, and what we had  
14 lost was the supervisors in the field. They were  
15 spending their entire day or days investigating use-of-  
16 force complaints, and not managing the people under  
17 their command, staff in the field. And that's what  
18 their job is.

19 So we helped implement -- and I'd like to  
20 thank President Willoughby and Vice-President Montgomery  
21 for the leadership in this. We helped implement this  
22 drive to try and simplify these levels so that we could  
23 get sergeants back in the field, supervising their  
24 individual members of their squads, and help improve the  
25 services that this Department provides the public.

1           So we believe that the critical changes to  
2       this use-of-force provision, these three steps, the  
3       steps that will be taken to investigate the use of  
4       force, will be successful and will help implement the  
5       changes that have been advocated by the Monitor and by  
6       the DOJ.

7           And to answer your question specifically, my  
8       sense of this is, not the lack of reporting of the use  
9       of force. That happens because people are human beings,  
10      people make mistakes, and sometimes there will be a lack  
11      of reporting because an individual decides to try and  
12      avoid it. But I think the vast majority of any  
13      encounter with the general public in the City of  
14      Albuquerque is reported, it's reported timely, and it's  
15      reported accurately.

16          What we noted and what we thought the failure  
17      was or what was not working appropriately was the  
18      quality of the review of the use of force that was being  
19      reported to the supervisors. What we hope that this  
20      three-step process will do now is free up supervisors to  
21      deal with Level 1, which I think Mr. Killebrew pretty  
22      much accurately described. Level 2 and Level 3 will be  
23      identified by supervisors who report and will have  
24      access to the individual officer and witnesses and to  
25      the video camera, and call out a separate team that will

1 investigate these separate levels. You'll get a better  
2 quality of investigation, freeing up the supervisors to  
3 work in the field, and giving it to people who have been  
4 trained to do this level of investigation for the use of  
5 force that has been reported.

6 So what the APOA believes is that while we  
7 recognize there's a risk, there's always a risk with  
8 human beings involved in any process, Your Honor. But  
9 we don't think the reporting of use of force is the  
10 problem here. We think it's the quality of the reports  
11 that are generated, the quality of the reporting that's  
12 done, and the quality of the reviewing that was being  
13 done was the problem. And we think this system will  
14 clarify that, simplify that, and send a better product  
15 up for review by what's now called the Compliance  
16 Bureau.

17 THE COURT: Thank you.

18 Dr. Ginger.

19 DR. JAMES GINGER: Thank you, Your Honor.

20 It was relatively easy for the Monitoring Team  
21 to support this change because, as the Court knows, I'm  
22 a process guy. I look at flow charts and those sorts of  
23 things to determine what a process is going to look  
24 like.

25 The change proffered by the parties in this

1 case literally increases the review rate of the minor  
2 uses of force -- for example, an over-tight handcuff or  
3 something like that -- by 33 percent. Under the old  
4 system, it was the regular APD supervisory command tier  
5 at the area station and the Monitoring Team. Under the  
6 new system, it's still those two, but it also will  
7 involve DC Garcia's Compliance Unit, who will conduct  
8 similar types of reviews. So basically, we didn't  
9 reduce the level of reviews. We increased it. So we  
10 support the proposed change.

11 Because the other output of that is, we have a  
12 more manageable system. And I advised the parties,  
13 almost from Day One, that truly the only way out of this  
14 Consent Decree involved three stripes on sergeants'  
15 uniforms. If they didn't get their sergeants involved  
16 -- and every agency I've been involved with, they had to  
17 markedly increase the number of supervisors in place, so  
18 to speak, in order to come into compliance. This system  
19 actually increases supervision of the types of use of  
20 force that could easily, normally, slip through the  
21 cracks.

22 So the Monitoring Team supports it.

23 THE COURT: Good. Thank you, Doctor.

24 It occurs to me that I haven't heard from the  
25 new Chief, and you certainly are welcome to address any

1 of this, or all of this, as you would like. But I  
2 didn't mention that the new Chief was at that meeting  
3 that I talked about earlier. And if I recall correctly,  
4 he came out of retirement to do this. Is that right,  
5 Chief?

6 MR. MICHAEL GEIER: That's correct.

7 THE COURT: I said at the time, "Goodness, it  
8 would have been easy for you to sit this one out."

9 But you came in with your eyes wide open, and  
10 that was part of the commitment on behalf of the City  
11 and the Police Department that got me to stick around.  
12 So thank you for that. I had meant to say that earlier.

13 The Compliance Plan is next. Deputy Chief  
14 Garcia.

15 MR. ERIC GARCIA: Good afternoon, Your Honor.  
16 Deputy Chief Eric Garcia with the Albuquerque Police  
17 Department Compliance Bureau, and I'll be going over an  
18 overview of the Compliance Plan that we filed with the  
19 Court yesterday.

20 First of all, I'd say the first five areas of  
21 the Compliance Plan specifically address the findings of  
22 deliberate non-compliance and deliberate indifference by  
23 the City. The sixth area will address the concerns of  
24 the amici that were brought to the Court's attention on  
25 November 16th of 2017.

1           After conferring with IMT, the Independent  
2           Monitoring Team, Your Honor, the parties, and the amici,  
3           the first version of our Compliance Plan, we realized we  
4           had kind of aggressive deadlines and it was an  
5           unrealistic approach. So after speaking to the amici,  
6           the DOJ, and the Monitoring Team, we needed to set  
7           realistic expectations because we didn't want to be in  
8           the same place the previous administration was, where we  
9           could not meet deadlines. We needed to set expectations  
10          about what we could realistically accomplish between  
11          February and July of this year.

12                 This Compliance Plan is a living and working  
13          document, but it continues to be building upon it. Also  
14          included in the Compliance Plan, at the suggestion of  
15          the amici, is a legend that defines certain terms and  
16          acronyms that we have in the plan. I think that was  
17          important. That was something that I think we needed to  
18          realize, because it's not just the Police Department  
19          looking at this stuff. We need to be understandable to  
20          the Court and to the public.

21                 Also, we included a list of reference  
22          materials in the document because we want our personnel  
23          to know where they can look for additional information  
24          for certain things like job-task analysis, completed  
25          staff work, things of that nature.

1           The Compliance Plan itself, Your Honor, is,  
2           like I said, divided into six areas.

3           The first area was the use-of-force  
4           investigations backlog. We believe that's a critical  
5           area at this time. Specific compliance issues that need  
6           to be addressed with that issue, that area of concern,  
7           are review, remediate, and decrease the backlog of field  
8           use-of-force investigations. Due to the process and the  
9           complicated process we have in place right now, there's  
10          a backlog, and we need to address that backlog.

11          We have created a commander position for the  
12          Internal Affairs force which will be in charge of the  
13          Force Investigation Section -- that commander is  
14          Commander Robert Middleton -- which I think is going to  
15          greatly assist us in achieving compliance and  
16          understanding the process that we need to do to meet  
17          these issues of deliberate non-compliance.

18          We have specific deadlines on each of these,  
19          as well. And initially, like I said, the deadlines,  
20          we're pretty close. We expanded upon those because we  
21          want to be sure we can meet those deadlines. We don't  
22          want to rush, and we also don't want to lay back and not  
23          be addressing these issues. They need to be addressed,  
24          but we need to be realistic, to be sure we can meet  
25          those deadlines and expectations of the Court.

1           Also attached to each of the areas are  
2           specific actions; basically, tasks that we need to  
3           achieve to meet each of these areas, where we are  
4           meeting these areas of non-compliance and deliberate  
5           indifference.

6           We also have an area of use-of-force  
7           investigations backlog that is going to deal with the  
8           backlog of serious use-of-force investigations, because  
9           we also have a backlog there, as well, that our Critical  
10          Incident Review Team is handling now. A new system that  
11          we are proposing to put in place should address this, as  
12          well.

13          Our second area of our Compliance Plan is the  
14          APD Implementation Unit. We quickly realized that there  
15          wasn't much, if any, dedicated resources to the  
16          Implementation Unit. That's why we created the  
17          Compliance Bureau. And especially after being in the  
18          conference in Ft. Worth, we realized agencies who are  
19          farther ahead than we are, like New Orleans, Seattle,  
20          they have a whole dedicated Bureau dedicated to  
21          compliance, and that's what we are settling right now.

22          We've got to create that implementation needed  
23          within the Compliance Bureau. And with that  
24          Implementation Unit, we are creating two civilian  
25          managers who will be answering to a lieutenant. It's



1 Lieutenant Cori Lowe. She has been helping me quite a  
2 bit with the forming of the Compliance Bureau. Those  
3 two managers will be civilian managers. We're going to  
4 have one that's going to be in charge of the  
5 Implementation Unit, itself, and another one in charge  
6 of the Performance Metrics Unit. Because basically we  
7 have to implement everything, but we have to have some  
8 type of measurement to show that we are meeting our  
9 goals and our objectives.

10 Again, under the APD Implementation Unit, we  
11 have created a Compliance Division. We have a series of  
12 tasks that are specific to the needs of creating this  
13 Bureau and Implementation Unit.

14 Lieutenant Cori Lowe from the Compliance  
15 Division will be the responsible person for those. And,  
16 again, we have deadlines in place. And we also freeze  
17 these areas.

18 We also have an area where you put for proof  
19 of compliance and data sources, course of business  
20 documents that show that we are completing these tasks  
21 and show the Court that we are meeting these, and show  
22 the public that we are meeting all of those tasks.

23 Under the Implementation Unit we also have a  
24 manual published, SOP, our policy development process.  
25 We have worked with the amici and the public on

1        developing this process. We understood that the  
2        original process was very difficult to understand, had  
3        too many steps. It was complicated. I don't think the  
4        public understood it, and I think a lot of personnel  
5        from our Department did not understand that policy, as  
6        well. So that is one area we're working on right now.  
7        We met with the amici on this. We're getting their  
8        input.

9                And I would like to emphasize that my plan is  
10       to meet with the amici and the public at least every six  
11       weeks to get their input. I want to know how we're  
12       doing. I want to show them our progress with the  
13       Compliance Plan, and the Compliance Bureau, and I want  
14       to get their input. Because Compliance has given us  
15       quite a bit of good ideas, and I think that we can  
16       implement it in the Implementation Unit and the  
17       Compliance Bureau. Again, Lieutenant Cori Lowe from the  
18       Compliance Division will be in charge of this area.

19               Our next section is develop and implement a  
20       Compliance Division policy. Lieutenant Cori Lowe will  
21       be in charge of that, as well. We are not trying to  
22       reinvent the wheel here. We also are going to talk to  
23       agencies, like I said, like New Orleans and Seattle to  
24       see what has worked for them; see if we can utilize it  
25       here; draft our policy to mirror some of the things that

1       were working in those areas, as well. Again, deadlines;  
2       a specific person in charge; and proof of compliance how  
3       we are meeting this plan.

4               Also in the Implementation Unit, we also have  
5       created a section within the Compliance Division devoted  
6       to use of force case oversight, and that's where we're  
7       talking about that Review Unit that's going to be  
8       reviewing all Level 1 uses of force. I think it's  
9       important, because we need to have an internal type of  
10      team, because Dr. Ginger has expressed that we have --  
11      because we have a process in place, and we catch our  
12      errors and we fix those and correct those. That's  
13      exactly what we need to be doing. It's not a "check the  
14      box." It's a process in place so that when I'm gone,  
15      when Lieutenant Lowe is gone, when Chief Geier is gone,  
16      these systems are here basically forever. It makes a  
17      better Police Department, changing this as a course of  
18      business.

19             THE COURT: Deputy Chief, we've been at it an  
20      hour and a half plus. I think you're going to be a  
21      while yet in your presentation.

22             MR. ERIC GARCIA: Yes.

23             THE COURT: Why don't we take a short break,  
24      let everybody stretch their legs a little bit. Let's  
25      be ten minutes, and we will reconvene at 3:15. And

1       thanks very much.

2               MR. ERIC GARCIA: Thank you, Your Honor.

3               (Recess from 3:05 p.m. until 3:31 p.m.)

4               COURTROOM DEPUTY JESSICA CHAVEZ: All rise.

5               THE COURT: Thank you, everyone. Take your  
6       seats, please.

7               Deputy Chief was at the stand, at the podium.  
8       We're in the midst of your presentation, please.

9               MR. ERIC GARCIA: Thank you, Your Honor.

10              I want to go into the next area, talking about  
11     the operations of the Academy. The first specific  
12     compliance issue that needs to be addressed on Number 3  
13     was address the staffing deficiencies within the  
14     Training Academy. Dr. Ginger has noted in previous  
15     reports that the Academy was severely understaffed, and  
16     he recognized that and addressed the Court as well.

17              One of the big changes that was made, as was  
18     stated earlier, was Commander Sullivan was moved to the  
19     Academy, which I think is a very positive step. He has  
20     shown himself to be able to reorganize and implement a  
21     lot of these areas of the CASA, so we are expanding it  
22     to a greater scale at the Academy.

23              Commander Sullivan requested an increase of  
24     personnel at the Academy, and the Chief and the City  
25     have agreed to several of the items that he has

1 requested. A lot of it is administrative staff. A lot  
2 of it is based on his seven-step training process that  
3 he has spoken to two members of the Independent  
4 Monitoring Team, Phil Coyne and Billy Toms. They  
5 suggested that that had worked in New Jersey, the New  
6 Jersey State Police.

7 Commander Sullivan has implemented that; he is  
8 implementing that at the Academy. To do the seven-step  
9 process, he needs additional personnel, and that is  
10 currently being reviewed. And I was really happy to  
11 hear this week that an increase in personnel at the  
12 Academy is going to happen, because training is  
13 obviously a huge issue with the whole entire CASA.

14 THE COURT: Chief, let me interrupt you  
15 again.

16 MR. ERIC GARCIA: Yes.

17 THE COURT: Excuse me. But just for  
18 everyone's benefit, the Compliance Plan you're talking  
19 about was filed last night. It's Document 358. It's a  
20 far-ranging plan, progressive I think.

21 MR. ERIC GARCIA: Yes.

22 THE COURT: It was something that I had asked  
23 for when we were together in November, I guess, to  
24 address specific concerns. And it's an attachment, I  
25 think, to that Document 358 that you're going through

1 with us now.

2 MR. ERIC GARCIA: Yes, Your Honor.

3 THE COURT: So this is all available to the  
4 public, and you ought to study it, or you certainly can  
5 study it in more detail.

6 MR. ERIC GARCIA: Yes, Your Honor. And on  
7 that note, we welcome input from the public. I don't  
8 want any surprises. I'd like to work with the  
9 community to get the Compliance Plan in shape and to  
10 improve it, instead of, like in the past, the only time  
11 we hear from the Department or see anything put out  
12 would be at a status hearing. I think that's the wrong  
13 approach. I think we need to be open, transparent.  
14 And I think we need to work with the community and  
15 listen to them and implement their recommendations in  
16 this plan, and we have already started to do that.

17 So like I said, every six weeks, at a minimum,  
18 we want to meet with the public to get their input, and  
19 also to give them kind of a progress report on where we  
20 sit. Because I know not everything is going to be good.  
21 We are going to have good and bad. Sometimes we may not  
22 make a deadline. If we don't, I want to explain why,  
23 and I want to explain what we are going to do to correct  
24 that. So it's an ongoing process, Your Honor.

25 Like I said, Commander John Sullivan at the

1 Training Academy is in charge of the operations, is the  
2 single person responsible for that. Specific deadlines  
3 are there. He has got things off to a good start at the  
4 Academy, with that training process. I doubt we're  
5 giving him the personnel to be able to do his job  
6 efficiently.

7 Included in the Academy is, like I said, a  
8 seven-step training process, Your Honor. He has also  
9 developed a process to determine the transfer of  
10 knowledge, because we have to make sure that our  
11 personnel, from our line officers to our supervisors,  
12 understand the policies and understand the training, and  
13 we've got to be able to measure that they understand  
14 that. Commander Sullivan is developing a process to  
15 determine that transfer of knowledge.

16 He's also working with -- he developed a  
17 modified Civilian Police Academy, CPA for Police  
18 Oversight Board, the Citizens Police Oversight Agency,  
19 and the CPC members, Community Policing Councils. And  
20 there have been a few issues, obviously, with the CPA  
21 that have been brought to our attention. Commander  
22 Sullivan is addressing them. As a matter of fact, we  
23 have reached out to set up a meeting -- hopefully  
24 tomorrow, if possible; if not, early next week -- to  
25 address their specific concerns because I don't believe

1       their concerns were addressed with them in the past. Or  
2       weren't addressed adequately. I'll put it that way,  
3       Your Honor.

4               Number 4. The fourth area of our Compliance  
5       Plan is supervisor use-of-force investigation,  
6       identifying process failures. One of the big items  
7       there is improve the Force Review Board process. We're  
8       having to revamp the Force Review Board. We have a new  
9       commander by the name of Chris George, who was the  
10      administrative lieutenant for the Force Review Board,  
11      who has now been tasked as the responsible person to  
12      identify uses of force to the Force Review Board,  
13      revamping the Force Review Board for the new process.  
14      He's also going to be creating a handbook for each  
15      member of the Force Review Board. Because, as we've  
16      seen in the past reports, the Force Review Board has  
17      been deficient.

18             Number 5, Your Honor, is the use-of-force  
19      training, which is a huge task. That's going to be  
20      undertaken by the APD Advanced Training, the Training  
21      Plan, between Advanced Training and the Internal Affairs  
22      Force Division, a new division we've created. So  
23      creating that, working alongside each other, will be  
24      Commander John Sullivan and Commander Rob Middleton, to  
25      ensure that we have a training plan for the use-of-force



1 training.

2 And Number 6, our amici concerns, several  
3 concerns that were brought to our attention last year,  
4 back in November, such as the McClendon subclass  
5 concerns, the CPOA and the POB members, issues with  
6 evidence.com. We're working on that. We have spoken to  
7 Director Harness from the CPOA, and we're going to be  
8 addressing his issues of concern, especially dealing  
9 with his access and his administrative rights with  
10 evidence.com.

11 And one thing that was brought to our  
12 attention, as well, was the Community Policing Councils.  
13 Mr. Sylvan has been doing a lot of the work himself on  
14 those. We realized quickly -- I think it was last year,  
15 actually -- that they needed a dedicated administrative  
16 support personnel. Currently, that administrative  
17 personnel that is hired shares the duties between the  
18 MHRAC, the Mental Health Response Advisory Committee,  
19 and the CPC Councils. We're going to change that.  
20 We'll have a dedicated administrator for MHRAC, and  
21 another one specifically dedicated to assist Mr. Sylvan  
22 in his duties with the Community Policing Councils.

23 Like I said before, Your Honor, the Compliance  
24 Plan is a living, working document. I want to continue  
25 to meet with the public, the parties, and the amici. I

1 want to update everyone on our progress. I want to  
2 continue to gather their input.

3 In addition to the meeting that we're going to  
4 be having on the Citizens Police Academy, we'll also  
5 reach out to the Community Coalition to address some  
6 additional concerns that they have with use of force.  
7 That meeting is scheduled for tomorrow morning, Your  
8 Honor, and that's going to be a standard type of process  
9 with us. If the community has a question or a concern,  
10 I want to hear from them. My staff and I are going to  
11 meet with them. We'll bring in the necessary subject  
12 matter experts in that area to speak to them, to give  
13 them an explanation. If they have input in policy,  
14 anything of that sort, we want to be sure and get their  
15 input.

16 Also, I would like to thank Dr. Ginger. He  
17 has provided a lot of support for me and our whole  
18 Bureau effort in performing. We collaborated with Dr.  
19 Ginger on meeting our goals, objectives, and measures.  
20 As a matter of fact, he provided technical assistance to  
21 all of our project leads on Tuesday morning, I believe,  
22 at the main police station, on developmental process, so  
23 that our new stakeholders understand and our new project  
24 leads understand that we do have to develop processes.  
25 It's not a "check the box." It's a process that needs

1 to be put in place to address all the issues in the CASA  
2 so that these reforms stay forever, to make us a better  
3 Police Department, obviously, and work better with our  
4 community.

5 I think, Your Honor, we believe that so far  
6 our efforts and the efforts of the new administration  
7 and the new Mayor and the new CAO, they demonstrate our  
8 commitment to reform; and we believe, at least, it's a  
9 significant change from the past. And moving forward, I  
10 think this is the way we need to work. We need to work  
11 together with the Independent Monitoring Team, the  
12 Department of Justice, and the community, to be sure so  
13 we can meet all of our goals and, like I said, make us a  
14 better Police Department.

15 And that concludes my presentation, and I'm  
16 open for questions, Your Honor.

17 THE COURT: I don't have any, Deputy Chief.  
18 Thank you very much.

19 Mr. Killebrew.

20 MR. PAUL KILLEBREW: Thank you, Your Honor.

21 I said a lot today about the trade-offs, and  
22 I'm very happy to say that when it comes to this  
23 Compliance Plan, there are no trade-offs. This is all  
24 positive. I am just delighted. Well, there is one  
25 trade-off, which is that Lieutenant Cori Lowe now dreams

1       in spreadsheet because she lives this thing.

2               But this document, you know, when the Court  
3       proposed this and ordered the parties to develop one,  
4       ordered APD to develop one, I think what we all hoped  
5       was that this would help us all see what APD is really  
6       doing day-to-day and hold them accountable for that.

7               What it has become, though, is something much  
8       better, much broader, and much more important to APD.  
9       It's becoming a true planning document. They're really  
10      thinking through carefully what are the steps that we're  
11      going to take in order to come into compliance; what  
12      order do these steps need to come in; and when are we  
13      going to get these things done. And that is the kind of  
14      thought process that we simply weren't seeing in the  
15      same way before. So I just commend them for taking the  
16      Court's order and really seeing the potential there and  
17      grabbing that potential and making something with it.

18              So, as the Deputy Chief said, this is a living  
19      document. This is a document that I think this entire  
20      week, when I've gone to APD for meetings, I walk into a  
21      room, and it's up on a big screen, and Lieutenant Lowe  
22      is sitting there at the typewriter, and everyone is  
23      sitting there talking about: Okay, what do we need to  
24      tweak here? What do we need to move there?

25              Because this is what planning looks like.

1 Planning is about projecting into the future, and then  
2 making adjustments as you learn more. And that's  
3 exactly what they're doing.

4 And so what we expect of this Compliance Plan  
5 is, yes, there was one version filed yesterday as  
6 Document 258-1, but that document is already different  
7 today, I would expect. They're going to continually be  
8 refreshing it as they make changes, as they learn more,  
9 and then updating the parties and the Court about the  
10 progress that they're making.

11 I wanted to clarify a couple of things about  
12 how we got to where we got on the documents filed. A  
13 couple of weeks ago, consistent with the Court's order,  
14 the City provided a draft of the Compliance Plan to DOJ  
15 and the Monitor and all the amici and stakeholders, so  
16 everyone had a chance to look at it and to give some  
17 feedback. And these three meetings that we had with  
18 stakeholders were about this Compliance Plan, as well.

19 There was one consistent theme from everyone  
20 in terms of feedback, which was that APD had set far too  
21 much for itself to do in the original draft. The  
22 original draft had not only all the areas of deliberate  
23 non-compliance; it also had every amici concern and all  
24 the Monitor recommendations. The original draft didn't  
25 have a deadline in there. There weren't many deadlines

1       that went past April, and so they were setting --  
2       proposing to do the entire case in the next couple of  
3       months. And that, we all just recognized, was going to  
4       be -- you know, we appreciate the ambition. But at this  
5       point, what we think APD really needs is to be realistic  
6       about what it can accomplish and how much time it's  
7       going to take to do these things.

8               So everyone's recommendation was: Hey, let's  
9       cut down how much we're trying to take on; and with  
10      what's left, let's extend that through the next six  
11      months, all the way through the end of July.

12             And so the next draft that we saw, the one  
13      that was filed yesterday, it actually removed whole  
14      subject areas. So you have to look at the Compliance  
15      Plan that was filed as 358-1 along with the cover  
16      pleading that was 358, because the cover pleading  
17      identifies specific areas that were taken out of the  
18      Compliance Plan. And it's not that APD is never going  
19      to do that stuff; they just can't do it now. And that's  
20      entirely reasonable. So they're going to put those  
21      topics off for a future Compliance Plan.

22             Those are the things that they will start to  
23      do once they can get to them. They needed to triage and  
24      figure out the most important issues first, and they  
25      made decisions about how to triage that I think were

1 entirely reasonable; addressing the backlog, for  
2 example. We can't move forward without clearing out all  
3 of the pending use-of-force investigations, and they  
4 have a plan for getting that done.

5 There's other things that APD has been working  
6 on in response to feedback that are really important.  
7 The Monitor noted when he got the draft that APD has a  
8 lot of information on this plan, but there's some big-  
9 picture pieces that it doesn't have, goals and  
10 objectives; the goals being, we want to clear the  
11 backlog within 12 months; the objectives being, we're  
12 going to make this amount of progress each month, and  
13 breaking it down into specific objectives.

14 And so APD has begun creating another document  
15 that includes these goals and these objectives. The  
16 draft that I saw earlier this week was very high  
17 quality. It reflected a lot of thinking on how to break  
18 down all that remains going forward into specific goals  
19 that link up to specific objectives. And what's really  
20 cool is that then you can link up the objectives to the  
21 tasks on the Compliance Plan, and you can say, "Wait a  
22 second. You don't have a task to meet this objective,  
23 which means you won't meet your goal."

24 And so then they will know that they need to  
25 go back in and figure out what tasks are going to be

1       necessary to meet those objectives.

2               So that goals and objectives document is still  
3       a work in progress, but we've encouraged the City,  
4       because once it's camera ready they should file that, as  
5       well, for the Court and the public to see so that we  
6       can, again, get a very clear picture of what they're  
7       doing.

8               And the other thing they have is an internal  
9       document. It's something that links all of the tasks  
10      that are in the Compliance Plan to specific requirements  
11      of the CASA. Now, that seems sort of obvious, but  
12      what's great about it is that in effect, they will be  
13      able to project their own levels of compliance into the  
14      future. They will know in six months this is where it  
15      should be, because we're going to be doing these tasks  
16      that link up to these CASA requirements.

17              And so then, if they can make an intelligent  
18      projection about what compliance level they should be  
19      at, they can do an assessment if they don't hit that  
20      objective, and figure out what's going wrong in their  
21      systems and what needs to be improved so that those  
22      projections are correct in the future.

23              So I am really excited about where they're  
24      going with the Compliance Plan. I am really excited  
25      that they're going to be reporting on the Compliance



1 Plan to the Court. The document suspending Paragraph  
2 308 talks about two interim status reports that the City  
3 and the Monitor will file, and in those status reports  
4 the City will report on its progress in implementing a  
5 Compliance Plan, and they're going to tell us, and I  
6 encourage them to do so with great candor, the deadlines  
7 they're hitting and the deadlines they're missing and  
8 why they're missing deadlines, so that we can identify  
9 problems early and address them.

10 I'm excited to see those reports, and I do  
11 hope that the City is honest with everyone about  
12 problems that they're having. And we don't expect  
13 everything to go perfectly. As I've heard it said  
14 before, we don't expect them to be angels and be  
15 perfect; but we do expect them to be saints and be  
16 honest. That's what we're looking for from them.

17 I'm just going to check my notes and make sure  
18 there's nothing else. I think that's all I have on the  
19 compliance, but I'm happy to answer any questions, Your  
20 Honor.

21 THE COURT: I don't think so. Thank you,  
22 Mr. Killebrew. I appreciate that.

23 Mr. Mowrer, and then we will hear from Dr.  
24 Ginger.

25 MR. FREDERICK MOWRER: Thank you, Your Honor.

1           Very briefly. I saw you leaf through the  
2 latest version of this. To say it's ambitious is to say  
3 the least, and we stand with the Department to try to  
4 accomplish the goals laid out in this Compliance Plan  
5 because we believe that if we are successful in reaching  
6 those goals, whether we reach them at the target date or  
7 we reach them later on, it will benefit not only the  
8 citizens of this city, but it's going to benefit the  
9 employees in the Department.

10           Thank you.

11           THE COURT: Absolutely.

12           Dr. Ginger.

13           DR. JAMES GINGER: Thank you, Your Honor.

14           I echo the DOJ's comments on current process  
15 on planning, organizing, and moving work product at APD.  
16 The goals, objectives, and timelines process that we've  
17 talked about today were actually provided to the old APD  
18 early in its process, but this is where the rubber has  
19 started to meet the road. And what DC Garcia has laid  
20 out here today is the foundation of modern planning  
21 processes at APD, which is one of the things that in the  
22 past, in past reports, we've noted as being somewhat  
23 problematic.

24           So we laud APD's progress on this point, and  
25 at this point. The Planning Unit that Chief Garcia

1 leads has done a whole bunch of work in a very short  
2 period of time to get to the point that they now have a  
3 picture, so to speak, of what lies in front of them;  
4 some indication of which things need to be done first  
5 and which things need to be done later; and, more  
6 importantly, an ability to visually see, all right,  
7 we've got six tasks assigned to this analyst and two  
8 tasks assigned to this analyst and 14 tasks assigned to  
9 this analyst. And so now we'll be able to start to  
10 equalize workload. We'll be able to manage timelines.

11 And I commend them for this work. I think  
12 it's foundational for moving forward on the CASA.

13 THE COURT: Thank you, Dr. Ginger.

14 That concludes through Item Number 5 on the  
15 agenda, and we go from there to comments from the amici.

16 We're going to hear first from Mr. Cubra.  
17 There he is.

18 MR. PETER CUBRA: Thank you, Judge.

19 THE COURT: Yes, sir. Of course.

20 MR. PETER CUBRA: Let's start with this.  
21 There are 15,000 people who I represent each year who  
22 have mental disabilities, that go to our jails, in the  
23 McClendon lawsuit. And on behalf of all of them, thank  
24 you for sticking with this case. I get how hard that  
25 is for you. And honestly, I want to say the same thing

1 to Dr. Ginger. Thank you for sticking with this case,  
2 because it now has a chance of being successful.

3 And so it's a great pleasure to be here today,  
4 talking about what these new people are doing and the  
5 new things they are doing.

6 On the McClendon front, I just will do the  
7 perpetual bit of, the Settlement Agreement between us  
8 and the City has moved forward very well under the new  
9 administration. The last administration, about 37 hours  
10 before they went out of office, adopted certain standard  
11 operating procedures, based on our Settlement Agreement,  
12 in a way that rejected much of our input.

13 This new administration agreed to ask Judge  
14 Parker to give them an extension of time, and the  
15 Interim Police Chief, Mike Geier, and Deputy Chief  
16 Garcia and the lawyers all sat with us, and just in the  
17 last couple of days they have sent us revised standard  
18 operating procedures that have addressed many, many of  
19 our concerns.

20 It's like dealing with different people. It's  
21 like dealing with another entity. They are reasonable,  
22 thoughtful, paying attention to the community's input as  
23 we've tried to express it. And so it is night and day,  
24 the experience we are having with these people at this  
25 time.

1           The Chief Administrative Officer set a meeting  
2     with me days after I saw you the last time. Even  
3     before, she had it done on her own time. She did that.  
4     And then when I walked in here today, the Mayor and  
5     Mr. Lewis both walked up to me to say, "Can we have a  
6     meeting with you?"

7           Now, these are public servants, and they're  
8     doing it right, and it makes all the difference. And so  
9     at the highest level, Judge, I've been at this since  
10    1984, working on system reform lawsuits. And the ones  
11    that worked all have these things in common. There is a  
12    defendant or a set of defendants who actually believe in  
13    the outcome, who are actually trying to achieve the  
14    outcome. And honestly, Judge, the other thing that  
15    makes them work is a judge who pays careful attention to  
16    the case and works very hard.

17          So we are situated for this case to be a  
18    success, and I just want to thank everybody involved for  
19    what they're doing.

20          There are some specific things I wanted to say  
21    about the process. It feels to me like the person in  
22    charge of this operation has a master's in business  
23    administration from the Harvard Business School. They  
24    are going about -- and which Tim Keller has. They are  
25    going about this in a methodical, careful, planful,

1       written way which allows them to be accountable to  
2       themselves and allows you to hold them accountable, and  
3       it's really great news.

4               Now, we talked last time about the technology  
5       of doing these cases and how a Compliance Bureau or a  
6       division or office is essential, and a Compliance Plan  
7       is vital, and they have undertaken both. In all  
8       honesty, this is happening in such a rush, I think it's  
9       premature to declare the way that they're doing some of  
10      the detail is precisely right.

11             Honestly, the Compliance Plan that I got this  
12      morning, and I didn't get to cross-reference with the  
13      draft that I got the other day, I'm not sure that I  
14      agree that it's a good idea to set aside certain  
15      important parts and say, "We don't have a plan at this  
16      time to address them," but to make a list of them and  
17      say, "We will make some kind of plan about these in the  
18      future."

19             It's what Mr. Killebrew talked about in the  
20      method. I get why you don't want a plan that has too  
21      much to do between now and July. But in a lawyerly  
22      nuance, the document that covered this Compliance Plan,  
23      Document 358, what it actually says at Page 3 is, "Where  
24      the compliance plan proves to be an effective modality  
25      for planning and executing on the requisites of reform

1 the following recommendations may be set out in the next  
2 compliance plan."

3 And so, you know, lawyers are suspicious, and  
4 so I didn't read that as a promise that there will be a  
5 future Compliance Plan, nor that these things would be  
6 set out; but rather, that they may. And so, you know,  
7 it's my role to keep an eye on both of these parties and  
8 to make sure that what happens is what they say will  
9 happen.

10 So for the time being, I want to say this  
11 Compliance Plan is a good start. I think it needs to be  
12 enhanced so that we do project out six months, twelve  
13 months, and two years. Reasonable professionals can  
14 disagree about whether that's the preferred methodology,  
15 as Mr. Killebrew has stated. And I respect very much  
16 the work he's doing here. He thinks it's best to do it  
17 in six-month chunks, but that's not the way I've done  
18 it, and it's not the way Judge Parker does it in his  
19 class actions.

20 And so I question whether we ought to at some  
21 point soon lay out in a more accountable way the  
22 outlying obligations, even if we don't get into detail  
23 yet, and just put in placeholders that say that here's a  
24 list of nine things that we will address in July or  
25 August, and make it a commitment instead of a less than

1       ironclad commitment.

2               So that's my thought about the Compliance  
3 Plan.

4               And the Compliance Bureau, they picked the  
5 right person to lead it; Lieutenant Lowe is quite  
6 impressive in the way she's doing what she's doing. But  
7 it remains to be seen whether this Bureau will become  
8 effective, because they're just not there yet. They  
9 will need bodies. They will need enough hours of person  
10 power. They will need a little bit of technology in  
11 order to have these plans that they are setting out turn  
12 into a quality management system.

13              Because right now, we've got a bunch of good  
14 ideas and some goals and some objectives. But really,  
15 the key part of these bureaus and offices and divisions  
16 is, once you think you've accomplished something, you  
17 have a system to go back and look and see how you're  
18 doing, and then look again and look again. Because  
19 things fall apart really easily in big bureaucracies.

20              And so they're off to a great start. I'm not  
21 criticizing anything they are doing, but I'm just saying  
22 it's way early to know if it's going to work. And  
23 adequate resources will be essential, and I don't quite  
24 know what their resources are. I don't think they know  
25 what their resources are.



1           And so it's wonderful where we're at, but it  
2       could still not work if it's not adequately resourced by  
3       people who actually have some experience doing this. So  
4       don't hear that as anything negative, but it's a  
5       precautionary note that a good first step does not mean  
6       that we're going to have a good trip.

7           At some point they need to reduce to writing  
8       some ideas about how they're going to do it, and then  
9       disseminate it to us stakeholders, and we'll give them  
10      some feedback, and then they should have written detail.  
11      The Compliance Plan, as I understand it, does talk about  
12      that, that there's going to be a standard operating  
13      procedure.

14           So it could very well turn out perfectly, but  
15      we don't know yet.

16           The technical assistance part, I honestly was  
17      surprised by one thing that Dr. Ginger said, and that is  
18      that he thinks that he can do two tasks simultaneously,  
19      with sufficient intensity to get the job done, with the  
20      existing budget. That didn't make sense to me, because  
21      the TA that is needed and that I understand to be  
22      underway over these next six months is so substantial  
23      that they can't do their regular job. But the thought,  
24      apparently, is six months out, they will be able to  
25      continue the intense TA that's essential and do their

1 regular job. And so there's just an illogic, in my  
2 mind, about that.

3 I had thought, coming into this event today,  
4 that you would hear from Dr. Ginger that in order to do  
5 this kind of intense TA over time and to do his regular  
6 mission of monitoring and reporting, that he couldn't do  
7 it within his budget. And we all know that this City  
8 has a big budget problem, and we all know that Dr.  
9 Ginger appreciates so much that people who are really  
10 trying hard and are smart are now in charge.

11 But I just want to offer you my own  
12 observation. It seems like they'll be stretched very,  
13 very thinly, and perhaps beyond their ability to do both  
14 well, if they don't have any additional resources in six  
15 months. So my enormous respect for Dr. Ginger makes me  
16 loathe to say anything different than what he says, but  
17 I just have to call that ball and strike the way I see  
18 it, and I wonder. So there's that.

19 So I would like to know and I think many of us  
20 in the community would like to know more information  
21 about which members of the Monitoring Team are doing  
22 what with whom during this hiatus of the regular  
23 reporting. Because I have only the vaguest idea of  
24 who's doing what, and I know many of us would appreciate  
25 having a better understanding of what are the topics and

1       what are the tasks and who's doing it.

2               There's a big Monitoring Team and there are a  
3       lot of people on the defendant's side, and I don't have  
4       a feel for this elephant of what the TA looks like, and  
5       I don't think anybody among the stakeholders, who are  
6       not parties, has a good understanding of it. And we  
7       would just get comfort from having a better  
8       understanding of what we're getting during this  
9       six-month hiatus on reporting, for what that's worth for  
10      you and Dr. Ginger to consider.

11              So the last thing that I want to say is that  
12      you raised some questions about whether doing the  
13      technical assistance simultaneous to doing the reporting  
14      is typical, and you asked whether or not in these other  
15      police cases that's been typical, and I understood  
16      people's answers to be: It's not.

17              But I think I want to try and give you these  
18      words of reassurance, that in most of the class action  
19      and system reform projects I've worked on, it's very  
20      common.

21              Now, this is the courtroom where Judge Parker  
22      held the Jackson trial in 1988, 1989, and 1990. And  
23      here we are, still trying to reform that system. So I'm  
24      hoping things go better here than that.

25              But I do want to say it this way. We have

1 incrementally had more and more activities by Court  
2 agents. And so he uses a person who he calls the  
3 Compliance Administrator, which is more than Monitor and  
4 less than Receiver, and that person does both, gives TA  
5 on a regular basis, outside the presence of this party,  
6 with the defendants, and then sits down and gives them a  
7 report card later.

8 And I think it can be done, but we all have  
9 to, with an open mind and an open set of eyes, recognize  
10 there's the intrinsic tendency for people to be kinder  
11 to the people they've been nurturing than they would be  
12 if they're not nurturing them. And so I think that Dr.  
13 Ginger gets that, and I think that it's going to work  
14 out fine.

15 And in the prison conditions case that Judge  
16 Burciaga and Judge Conway did, the Duran Consent Decree  
17 case, the same thing. The Special Master and his  
18 consultants, they did TA and reporting. And I think  
19 it's fine, and I don't think it's going to turn into a  
20 problem.

21 And so that's my little presentation. Oh, I  
22 guess I did want to say this. The policy development  
23 process that has been talked about, this new SOP, I  
24 think it is probably less confusing and entangled than  
25 the last one, and I think it's highly confusing and

1       entangled. And so I did suggest in a letter that  
2       Dr. Ginger ought to help them think of the way to roll  
3       out policies that balances out efficiency and inclusion  
4       in a better way, because I think this is still too many  
5       cooks, and we'd like the broth to be good.

6               THE COURT: We would, indeed.

7               MR. PETER CUBRA: I appreciate you very much,  
8       and thank you for the time.

9               THE COURT: Thank you, Mr. Cubra. I  
10       appreciate your help too.

11              When I got here a while ago, Judge Parker  
12       wasn't here. I was looking for him, my good friend and  
13       mentor. I don't get a chance to see him much. He had  
14       walked over to the jail to take a tour and meet a new  
15       administrator or something, as a part of his ongoing  
16       work in your matter.

17              MR. PETER CUBRA: You two have a lot in  
18       common.

19              THE COURT: So, Dr. Ginger, there were some  
20       questions posed by Mr. Cubra. When we conclude or when  
21       we get through with these presentations, I'll let you  
22       kind of address individual concerns as they come up.  
23       You're making notes. Good job. Thank you.

24              Next is Dean Mathewson and Mr. Maestas and  
25       Mr. Arellanes. And Ms. Bautista is here, as well.

1 I'm sorry. Would you let Julie, the court  
2 reporter, know who you are.

3 MR. ALFRED MATHEWSON: Yes. I'm Alfred  
4 Mathewson.

5 MR. ANTONIO MAESTAS: Thank you, Your Honor.  
6 I'm Antonio Maestas.

7 THE COURT: And you're Mr. Arellanes?

8 MR. RALPH ARELLANES: Yes.

9 MR. ALFRED MATHEWSON: Good afternoon.

10 So the reset, I would say that we are pleased  
11 to see the reset, if for no other reason than the change  
12 in tone, the transparency that we are receiving, and the  
13 sense that we're being listened to. We are concerned,  
14 though, three and a half years into the process, and the  
15 community had significant trust concerns when we  
16 started, and our concern is that by starting over again,  
17 if it gets thrown out, the trust concerns will grow  
18 rather than be reduced.

19 One of the things that we raised back in May,  
20 that I'm not going to address, just mention, the  
21 standard operating procedure does open its process up to  
22 allow community organizations and individuals who are  
23 not represented by lawyers participate, and that's  
24 something that we were pleased to see. We still would  
25 like to see the court process be opened up, as well, and

1 we will have conversations with the parties between May  
2 and November to see what we come back with.

3 But one of the things, the reason that we are  
4 sharing our time with representatives from our  
5 organization, as lawyers, we get to speak, but we think  
6 that the Court should hear from members of the community  
7 to express their concerns and you can see the depth of  
8 the trust concerns.

9 In terms of the reset, one of the things, that  
10 is happening very fast, and there are lots of documents  
11 and lots of filings recently, and we are still  
12 reassessing, trying to understand them. So we'd like  
13 the reset, but we are still trying to evaluate and  
14 assess it, and part of that is in the documents.

15 So one of the concerns that we have on use of  
16 force dealt with the use of tasers, and we are trying to  
17 still understand this one. We can present, tell you  
18 what we do understand. And it's also true, as Chief  
19 Garcia said, we are going to meet with the parties  
20 regarding this so that we have a better understanding  
21 and see if the issues can be addressed.

22 But specifically in terms of the tasers, and  
23 this came up in the discussion in the meeting on March  
24 8th dealing with the different levels of abuse in terms  
25 of the three levels now of force, the review. And the

1 use of tasers was a second-level review, and it took  
2 three uses, three shots of the taser to trigger a  
3 third-level review. Well, the tasers are weapons.  
4 Someone has been shot. And our sense was, if you have  
5 these different levels, to say that one shot is a second  
6 level and three is a third level, the messaging about  
7 how serious the use of a taser is.

8 The bigger issue that came up was the taser  
9 manual and whether the officers were being trained to  
10 use tasers consistent with the taser manual. And  
11 Mr. Arellanes is going to address this on a personal  
12 side, but it had to do with whether or not, as we  
13 understood it, the officers were being trained to shoot  
14 at the upper chest area. And Mr. Arellanes recalls  
15 reading a taser manual that said you shouldn't do that;  
16 you should aim the taser at a lower portion of the body.

17 And so we did have the manual available, and  
18 it wasn't clear that the manual had been read by those  
19 who were training the officers. And so for us,  
20 certainly Taser International has a manual for how it  
21 should be used. The training ought to be consistent  
22 with it.

23 I did, over the weekend, Google it and review  
24 two or three manuals over the weekend, and it does  
25 depend on the model. And I don't remember what model



1 APD is using, but there are instructions, and there was  
2 at least one manual which did contain one similar to  
3 what Mr. Arellanes will raise. So that's a concern.  
4 But also, the City and the parties have agreed to sit  
5 down and talk with us about this so that we can get a  
6 better understanding, to see exactly what has happened  
7 with that, and to make sure that we're on the same page.

8 THE COURT: Dean, when is that meeting  
9 scheduled?

10 MR. ALFRED MATHEWSON: We're trying to  
11 schedule it tomorrow. It was initially set for 9:00 in  
12 the morning, but I have a constitutional duty tomorrow  
13 so I can't be there, and so we're trying to reschedule  
14 it for the afternoon.

15 THE COURT: Well, I expect that whenever that  
16 meeting occurs, tomorrow, early or late, or early in  
17 the next week, these questions will be answered in  
18 terms of what the Academy has taught historically; what  
19 the Academy is going to teach now, if it differs; and  
20 what their manual is and what model it is.

21 You're going to have all of those questions  
22 answered for you at that meeting, no doubt.

23 MR. ALFRED MATHEWSON: So what I want to do  
24 is have Mr. Arellanes speak, again, in terms of how the  
25 community is being addressed, because this goes to the

1 trust issue. This is the concern. This is how it's  
2 viewed by them, and not just how it's viewed by the  
3 lawyers. Thank you.

4 MR. RALPH ARELLANES: Thank you. Good  
5 afternoon, Your Honor, and thank you for all your  
6 dedication to this process, and your time.

7 As you know, my name is Ralph Arellanes, and  
8 I'm the Executive Director for New Mexico LULAC, and I  
9 am the Chairman of the Hispano Round Table of New  
10 Mexico.

11 During our meeting on March the 8th, last  
12 week, members of the amici met with the Mayor's Office,  
13 his staff, the U.S. Department of Justice, APD brass,  
14 City Attorneys, APD Union leadership, and many other  
15 City officials. We were discussing the use of  
16 electronic control devices, which are better known as  
17 taser weapons.

18 THE COURT: Mr. Arellanes, forgive me. I  
19 know Ms. Goehl, the court reporter, is thinking, "I  
20 can't type this fast."

21 You know, when you read something, you tend to  
22 speak more quickly than when you just are not reading.

23 MR. RALPH ARELLANES: Okay.

24 THE COURT: So if you'll slow it down just a  
25 bit, it will help her.

1 MR. RALPH ARELLANES: With all due respect, I  
2 will slow down, but I was given two minutes. So I'll  
3 slow down.

4 THE COURT: Oh, and so that's a built-in  
5 dilemma. You know, you give him two minutes, and  
6 you've got a lot to say. I get it. You've got to talk  
7 fast.

8 MR. RALPH ARELLANES: You gave me two minutes.

9 THE COURT: All right. I'll give you three  
10 minutes.

11 MR. RALPH ARELLANES: Thank you, Your Honor.

12 THE COURT: Yes, sir.

13 MR. RALPH ARELLANES: I'll probably have to  
14 buy one more.

15 So we were discussing the use of electronic  
16 control devices, or better known as taser weapons. As  
17 we were discussing use of force, I asked the question,  
18 "What part of the body do you fire your taser guns?"

19 Their collective response was, "We shoot for  
20 the upper torso or upper body mass."

21 I immediately responded -- because I have a  
22 lot of experience with it and a family issue with it. I  
23 immediately responded, "What?" I said, "You cannot tase  
24 a person above the waistline, especially with the X26  
25 tasers, which is what APD uses."

1 I told them, "According to Taser  
2 International's training manuals and standard operating  
3 procedures, you cannot tase a person above the waist,  
4 nor in the groin area. This is a lethal weapon that has  
5 killed thousands of people."

6 Then I asked all of them in the meeting, "Have  
7 any of you even read the training manuals on the proper  
8 use of taser guns from Taser International? The company  
9 spends millions every single year that you purchase your  
10 taser guns."

11 Their collective response was "No," they had  
12 not read the manuals. Not a single person in the room  
13 had read the standard operating procedures published by  
14 Taser International on the proper use of taser guns,  
15 even though we're sending them millions of dollars per  
16 year.

17 I cannot believe nor comprehend that we have  
18 been fighting this issue for over 11 years now, Your  
19 Honor; in my family, since 2007. And after millions and  
20 millions of dollars the City pays for taser weapons and  
21 lawsuits, and none of them have read the proper use-of-  
22 force procedures to apply taser weapons, mandated by  
23 Taser International, the very company they purchased  
24 their tasers from. They haven't even read them.

25 We are basically starting from ground zero,

1 Your Honor, and Mayor Keller has a very long way to go  
2 in order to fix these problems. Right now, every  
3 citizen in New Mexico is in great danger because of  
4 their incompetence and lack of training in proper use of  
5 taser guns, a weapon of human torture.

6 LULAC and the Hispano Round Table of New  
7 Mexico have long advocated that the use of taser weapons  
8 should cease immediately. The United Nations has  
9 classified these weapons as a weapon of human torture.  
10 At a minimum, Your Honor, the use of tasers should stop  
11 until officers are properly trained.

12 Lastly, Your Honor, I have written to you  
13 before about the fact that the Albuquerque Police  
14 Department is following me and several members of my  
15 family around town. This harassment continues. Last  
16 night, they passed by my home at least a dozen times.  
17 That's intimidation. The evening of our March 8th  
18 meeting, they were shining their spotlights into my  
19 home. This is the exact same thing they did while we  
20 were going through our lawsuit against the City back in  
21 2007 to 2010.

22 If they are under-manned, why do they have the  
23 time to harass citizens? They are profiling me and my  
24 family for the work we are doing through this process.  
25 I have to believe that those present at our meeting last

1 week are very much aware of this conduct. We ask you  
2 for your support, Your Honor.

3 Thank you, Your Honor.

4 THE COURT: Thank you.

5 Deputy Chief, I'll want a response to that  
6 particular allegation later this afternoon, and  
7 certainly I'll have you address it with them at the  
8 meeting tomorrow, your official Department response.

9 MR. ERIC GARCIA: Yes, Your Honor.

10 THE COURT: Thank you.

11 MR. ANTONIO MAESTAS: Thank you. I'm Antonio  
12 Maestas. Thank you very much, Judge.

13 The amici are overjoyed with the new  
14 leadership team, the City, and the DOJ. But if I may, I  
15 want to read from the findings letter, if I may be so  
16 bold, Judge. In fact, I know we all know it, but I'll  
17 read the relevant part:

18 External oversight is broken and has allowed  
19 the Department to remain unaccountable to the  
20 communities it serves. Based on our investigation, we  
21 find that the Department engages in a pattern or  
22 practice of using excessive force during the course of  
23 arrests and other detentions, in violation of the Fourth  
24 Amendment of the United States.

25 And the seizures that were unconstitutional

1       ceased the life of people. People were killed.

2               And the findings letter goes on to say:

3               We reviewed all fatal shootings by officers  
4       between 2009 and 2012 and found that officers were not  
5       justified under federal law in using deadly force in the  
6       majority of those incidents.

7               And so we look back on 2010, 2011, 2012, where  
8       this city was, and everyone was in denial, you know.

9               And so the findings letter talks about:

10              Although a significant amount of the force we  
11       reviewed was used against persons with mental illness  
12       and in crisis, the use of excessive force by APD  
13       officers is not isolated or sporadic, and that chief  
14       among these deficiencies are the Department's failure to  
15       implement an objective and rigorous internal  
16       accountability system. Other deficiencies include  
17       incoherent implementation of community policing  
18       principles.

19              And so even though this stuff has definitely  
20       improved, it's our clients' opinion that these processes  
21       are not in place. And so as you recall, Judge, we  
22       represent various organizations that are involved in  
23       immigration work, community work, work with youth, work  
24       with various folks, environmental justice, and they have  
25       years and years of organizational experience and

1 relationships here in Albuquerque.

2 So what we'd ask the Court and the bodies is  
3 to -- and our paragraphs basically are 215 and 298.  
4 215, the early intervention system, acknowledges and  
5 keeps demographic data for each officer. For each  
6 individual officer, it keeps demographic categories, for  
7 each civilian that these incidents occur with.

8 But when you look at 298 -- or rather, Judge,  
9 just for the record, in Paragraph 292, Subparagraph (b),  
10 it says "demographic category of complainants." I don't  
11 think "demographic category" is defined. I'm sure  
12 there's understandings amongst the parties. But when  
13 you talk about 298, use-of-force measurements,  
14 specialized units, recruitment measures, it talks about  
15 "demographic category." It just uses that word  
16 "demographic category" about five times.

17 What we would ask is that since we're changing  
18 the language, we use that opportunity to clarify  
19 "demographic category" and add it to the demographics of  
20 the officer, which is very easy to attain. It's not  
21 additional work that a lot of these paragraphs make the  
22 officers do. And so, for example, in the recruitment,  
23 they keep data on whether that recruit speaks Spanish;  
24 whether they have a degree; whether they came from  
25 another agency.



1           I think it's important for us, to truly have  
2     the best constitutional use of force in the country,  
3     that the police force have similar demographics to the  
4     communities that it serves; in particular, folks who  
5     either were born here or grew up here. And so as APD  
6     evolves, we think that keeping these steps shouldn't be  
7     a problem.

8           Assessment, Your Honor. The word "assess" is  
9     a Latin word that literally says "to sit beside the  
10    learner." And so what we need is innovative assessments  
11    of these things, and we've got to keep the data to have  
12    these assessments. And so even though the diligence of  
13    APD is heightened, our scrutiny and our vigorousness  
14    cannot wane, given the distrust and things of that  
15    nature.

16           But in closing, we're very appreciative of the  
17    new Mayor, the new Police Chief, and the folks who came  
18    out of retirement. The Deputy Chiefs are fantastic.  
19    The City Attorney, who is committed to his client, but  
20    he's also committed to the rule of law and what you  
21    order his client to do. And we're also happy that 16  
22    months from the new administration's election until the  
23    placement of the new U.S. Attorney for this district is  
24    finally in place.

25           So we think that things are going in the right

1 direction. We're also going to -- I don't know what  
2 word to use -- recalibrate or regroup with regard to our  
3 amici because we send out notices, and they come or they  
4 don't come. We're going to reach out individually to  
5 each of them. A lot of them are fantastic community  
6 reorganizers, so we'll see if they want to organize  
7 meetings and chair meetings; and then, to the extent the  
8 City can, invite the City to those very meetings to  
9 complement the work that the City is doing with regards  
10 to their Community Councils.

11 So we'd like to hear for a couple of minutes  
12 from Maria Bautista, who has concerns she wishes to  
13 address the Court.

14 We want to thank the Court tremendously for  
15 allowing citizens to be involved in a civil case, which  
16 may be unprecedented, but it's because of your  
17 creativity and your leadership, and we want to thank  
18 you.

19 THE COURT: Ms. Bautista.

20 MS. MARIA BAUTISTA: Thank you. Good  
21 afternoon, Your Honor.

22 THE COURT: Good afternoon.

23 MS. MARIA BAUTISTA: My name is Maria  
24 Bautista. I want to acknowledge first the aggrieved  
25 families who are responsible initially for these

1 proceedings.

2 I am concerned, Your Honor, about the lack of  
3 previous oversight and sanctions by the Court and the  
4 Department of Justice regarding the Independent Monitor  
5 Reports 1 through 6. Dr. Ginger indicated on more  
6 than one occasion that there was deliberate  
7 non-compliance.

8 No matter how hard rank and file worked, the  
9 officers themselves were undercut by upper brass, and  
10 their retention bonuses were taken. APD was  
11 understaffed because the money available for new  
12 officers was used to balance the City budget. There  
13 were no reprimands or sanctions. In fact, there were  
14 rewards and acknowledgments, totally disregarding the  
15 Monitor's concerns of deliberate non-compliance.

16 On May 4th, Your Honor, 2016, Dr. Ginger  
17 informed the Court that APD was engaging in a policy of  
18 do little, delay, and deflect.

19 As an advocate and a stakeholder, I must trust  
20 the Court and DOJ. You are the only recourse that we  
21 have. In this instance, Your Honor, justice failed and  
22 crime escalated.

23 The co-conspirators included Mayor Berry, Rob  
24 Perry, Jennifer Hernandez, Chief Eden, Deputy Chief  
25 Huntsman, and others who participated willfully in the

1 deliberate obstruction of justice, and they were free,  
2 Your Honor, to play their game and win.

3 We are here now in this delayed process  
4 called, quote, "a reset." This delay, after three years  
5 of hard work by all parties, is the direct result of the  
6 past administration. And they were looking for money.  
7 They conspired with one another to undermine and to  
8 obstruct the terms of the CASA agreement by covertly  
9 taping and recording the Monitor's comments during  
10 meetings with APD, and they refused to comply, Your  
11 Honor, with the Court order or even with their own SOPs  
12 or their own rules of professional conduct. Those were  
13 criminal acts, and they violated the terms of the Court-  
14 Approved Settlement Agreement, and there should have  
15 been consequences.

16 And that's why the amici has a hard time  
17 trusting. Our commitment is firm, and our amici support  
18 a continued process. And we do look forward to working  
19 with the new administration, and we do support Dr.  
20 Ginger for that civility. And I hope that this Court is  
21 able to recoup some of the money that we lost over the  
22 last three years and be able to assist the process going  
23 forward.

24 Thank you.

25 THE COURT: Thank you, Ms. Bautista. Thank

1       you all.

2               MR. RALPH ARELLANES: Thank you, Your Honor.

3               THE COURT: Ms. Bautista just approached and  
4 handed to us -- it looks to be just her remarks written  
5 out. I'm glad for you all to see it. I didn't know  
6 what it was. You've got it now? You all have seen  
7 it?

8               MR. ESTEBAN AGUILAR, JR.: Yes, Your Honor.

9               THE COURT: Did you want to make this part of  
10 the record, Ms. Bautista?

11              MS. MARIA BAUTISTA: Yes, Your Honor.

12              THE COURT: Any objection?

13              MR. ESTEBAN AGUILAR, JR.: No objection.

14              THE COURT: We'll call it Exhibit A to  
15 today's proceedings.

16              (Exhibit A admitted.)

17              THE COURT: Let me address Ms. Bautista's  
18 concerns when we conclude today.

19              Now let's go to the Police Oversight Board,  
20 POB, and CPOA. Ms. Chelsea Van Deventer. I'm sorry.  
21 Is that a male?

22              MR. EDWARD HARNESS: Actually, Your Honor,  
23 it's just going to be the CPOA for both.

24              THE COURT: All right. Mr. Harness.

25              MR. EDWARD HARNESS: Good afternoon, Your

1 Honor. I'm here on behalf of the Police Oversight  
2 Board and the Civilian Police Oversight Agency. I  
3 would like to acknowledge that we do have Ms.  
4 Van Deventer and Dr. Bill Kass here from the Oversight  
5 Board.

6 Dr. Martin Luther King, Jr., once said, "We  
7 are not makers of history; we are made by history." And  
8 it is with that in mind that we move forward in this  
9 process. We support this stipulation presented to the  
10 Court today because it's the only way forward that makes  
11 sense to us.

12 There is a different climate at the  
13 Department. The ivory tower has collapsed, and we are  
14 finally being heard. The Board is thankful for the  
15 efforts of APD to file the Compliance Plan, and we are  
16 especially thankful for their streamlining and providing  
17 a Citizens Police Academy for the members of the  
18 community, of whom it is a requirement for them to do  
19 their voluntary work. The Board is glad to finally have  
20 reached a point where the Department acknowledges that  
21 it must submit CASA-related policies to the body for  
22 consideration.

23 However, before I portray this as all  
24 seashells and sunshine, we do have some concerns. We're  
25 concerned about the use-of-force changes from the

1 two-level evaluation to a three-level evaluation, and  
2 the undefined review process for the agency and the  
3 Board. It was in May of 2016 that we came to you,  
4 presenting a solution to review serious use-of-force  
5 cases and use-of-force cases, with an agreement that all  
6 cases that went to the Force Review Board would then be  
7 reviewed by the Police Oversight Board.

8 The current changes only contemplate a Level 3  
9 use of force coming before the Force Review Board  
10 because they have pigeonholed serious use of force under  
11 Level 3. Yet, in the process which they are describing,  
12 Level 2 and Level 3 will go to the Force Review Board.  
13 I believe that the citizens of Albuquerque, when there  
14 is an injury to a civilian by the use of force by an  
15 officer, and it's worthy of going to the Force Review  
16 Board, I would believe that the community would want  
17 that to go to the oversight body, as well. And that is  
18 yet to be defined.

19 We have concerns about the use-of-force  
20 instruction. Myself and four Police Oversight Board  
21 members attended the newly abbreviated Citizens Police  
22 Academy. We spent an entire day on use of force. It  
23 was a Sunday. That training caused us concern, not only  
24 in its content, but in the delivery.

25 We also have concerns that we've been unable

1 to reach an agreement to allow the CPOA to outsource our  
2 data analysis. We've been assured that these concerns  
3 will be addressed.

4 So in conclusion, we will bear in mind that we  
5 are not makers of history, but we are made by history.

6 Thank you. Questions?

7 THE COURT: Mr. Harness, you have indicated  
8 that your concerns have been addressed to the new  
9 administration and they've been responsive. You talked  
10 about to what extent you were going to get to review  
11 the uses of force, just Level 3, and you felt that that  
12 was problematic; that all injuries, you said, ought to  
13 be reviewed by your agency.

14 And as I understood the definition laid out  
15 earlier, Level 1 didn't involve injury. So your concern  
16 is only about Level 2? Am I reading that correctly?

17 MR. EDWARD HARNESS: That's correct, Your  
18 Honor. In the amendment to the Settlement Agreement  
19 and in the stipulations, at one point serious use of  
20 force was stricken, but then it was reinstituted. But  
21 it was reinstituted within the three-level,  
22 three-tiered system of evaluation, but it was still in  
23 the context of a two-tiered system of evaluation, which  
24 is what was in place previously.

25 So there is this void that needs to be flushed



1 out, as to whether or not Level 2 uses of force will be  
2 reviewed by the oversight body or whether it's going to  
3 be simply Level 3.

4 THE COURT: Someone -- maybe it was Mr. Cubra  
5 -- said earlier, "I've only seen the Compliance Plan  
6 for the last couple of hours." Because it was filed  
7 last night. In fact, after I left my office, it was  
8 filed, so I know what time it was filed. There has  
9 been what I am willing to call a really aggressive,  
10 ambitious attempt to implement a whole new strategy, a  
11 whole new approach to this process by the new  
12 administration. And at some point I'll get tired of  
13 using the "reset" metaphor.

14 But it's coming at us pretty fast, and even  
15 this afternoon I'm drinking through a firehose. I'm  
16 hearing a lot of stuff. I have not had a chance to  
17 matriculate it all and assimilate it all. I think we're  
18 all in that same boat. So many of the amici have said,  
19 "Yes, we're excited about the new administration, but we  
20 have concerns."

21 Well, we all have those concerns. I think we  
22 all share those concerns, because we wouldn't be here  
23 otherwise. A new administration and a new attitude is a  
24 great place to start, but the rubber still has to meet  
25 the road. We still have to see results, and we still

1 have to have constitutional policing and a safer city  
2 for our citizens.

3 So I echo what's been said. I'm excited about  
4 a change in tone. Gosh, you know, it may seem like a  
5 long time ago to some of you. It seems like a few days  
6 ago, to me, that we were here in November over at the  
7 Domenici courthouse and, gosh, that was a whole  
8 different day.

9 So it's a legitimate question you raise. I  
10 think, given what I've heard, your concerns are going to  
11 be addressed. And if you still have those concerns  
12 after you've had a chance to work through this and  
13 really dive into the detail, I want to know about it,  
14 and certainly you need to keep those concerns before me.  
15 That's all.

16 I'm just suggesting that we're 90 days into  
17 this administration, or whatever it is, so I think we're  
18 all pleased with the new tone, the new tenor, but we  
19 still have to see results, right?

20 MR. EDWARD HARNESS: Yes.

21 THE COURT: And as to the Compliance Plan, I  
22 haven't read it all. You know, I was driving up here  
23 today when I got it, so there's some detail to still be  
24 worked through.

25 MR. EDWARD HARNESS: Absolutely, Your Honor.

1           And I'm much more confident working with this  
2       administration and the people that are here today than  
3       who was here in November. It's just certainly these are  
4       some of the concerns that the Board has, and I'm just  
5       bringing them to your attention, and we hopefully will  
6       have them resolved the next time that we address you.

7           THE COURT: Gosh, I hope so. And I took it  
8       as nothing more than what you said. We have ongoing  
9       concerns, and those don't go away.

10          MR. EDWARD HARNESS: All right.

11          THE COURT: Thank you so much.

12          MR. EDWARD HARNESS: All right. Thank you.

13          THE COURT: Mr. Allen and Ms. Koenigsberg.

14          One thing I learned while I was in New  
15       Orleans, that the folks from the City who were there can  
16       bear it out, there are periodic status conferences in  
17       the other venues, the other Consent Decree cases.

18          But Judge Morgan said, "You let them do what?  
19       You hear from the public in these hearings?" And I  
20       said, "Yeah."

21          So apparently that doesn't happen everywhere.

22          MS. NANCY KOENIGSBERG: Good afternoon, Your  
23       Honor. And especially at this late hour, we do  
24       appreciate that the Court gives the amici and the  
25       public an opportunity to talk, and I think it proves

1 helpful, in contours, for you to hear that. So thank  
2 you.

3 THE COURT: It certainly does.

4 MS. NANCY KOENIGSBERG: Recognizing the  
5 lateness of the hour, I'll make my brief comments even  
6 briefer because many of them you've heard, about the  
7 overall shift in tone.

8 The things that APD Forward is particularly  
9 appreciative of, and Mr. Allen will address some points  
10 -- we're splitting this in half on behalf of APD  
11 Forward. The ability to talk at an open process and  
12 bring concerns directly to the administration is huge.  
13 Very early on, like immediately after the first of the  
14 year, we had an opportunity to meet with Chief Geier and  
15 others in the administration. We very much appreciate  
16 Deputy Chief Garcia's interest in meeting with people  
17 every six weeks, and APD Forward is looking forward to  
18 taking him up on that as we collect information and can  
19 identify issues and pass that along.

20 We do also share the concerns about, even with  
21 these time frames perhaps being ambitious as well, we  
22 very much want this to be the opportunity where things  
23 are done right, so that we don't have to, as a community  
24 and the police force, have to yet redo one more time.

25 So as the Compliance Plan rolls out, I'm

1       hoping that part of the assessment is whether or not the  
2       time frames are in fact realistic.

3               We've got these dual concerns of, we're years  
4       behind with getting an infrastructure in place that  
5       works and works well. So that will be the balance, I  
6       think, that APD Forward is going to be watching and  
7       discussing with the police. And actually, I think Mr.  
8       Mowrer had said that, as well, about if the time frame  
9       even in this Compliance Plan, which I've only glanced  
10      at, so I'm only a little step ahead of you, we're  
11      concerned about.

12             The suspension of Paragraph 308, again, is the  
13      same tensions, and we share the same concerns in terms  
14      of the trade-off. At this point, we're going to trust  
15      the judgment of the Department of Justice, who has  
16      weighed those trade-offs. We really agree and do want  
17      to see how this is going to work out. Since we're not  
18      going to have an IMR 7, my colleagues were in the room  
19      discussing about this 12-month look-back, that for the  
20      public to really understand and for the stakeholders to  
21      understand, that when we come to Independent Monitor  
22      Review Report 8, that we'll have a chance to see what  
23      the steps were in getting to what the conclusions were  
24      that the Monitor makes at the eighth report.

25             And we're going to need to look -- we will

1 look really closely at the status reports that are going  
2 to be turned in. Because, again, that's going to be  
3 self-reporting, and we will want some more detail, I  
4 think, in those interim reports that are given to the  
5 Court in the status reviews.

6 Again, we really appreciate the opportunity  
7 for real conversation and input and do have a belief  
8 that we are being listened to, and look forward to  
9 seeing continued incorporation of the public's input  
10 into the Compliance Plan and the activities. And I'll  
11 stop there. Mr. Allen will be next.

12 Thank you.

13 THE COURT: Yes, ma'am.

14 MR. STEVEN ALLEN: Good afternoon, Your  
15 Honor.

16 THE COURT: Good afternoon.

17 MR. STEVEN ALLEN: I just have a couple quick  
18 points to add to the ones that Ms. Koenigsberg already  
19 made on behalf of APD Forward. The first is with  
20 regard to the revisions that are being proposed to the  
21 CASA. The APD Forward completely supports the  
22 motivation behind those changes. I think we can all  
23 agree that first-line supervisors should not be wasting  
24 their time on useless bureaucratic tasks, and so  
25 anything that we can do to make their jobs simpler so

1       that they can spend their time to actually supervise  
2       and provide guidance to the officers under their  
3       command makes perfect sense to us.

4               At the same time, we need to make sure that  
5       those systems of accountability from the Department that  
6       we're still striving to create don't suffer from any  
7       changes that are made. So some of the concerns that  
8       Mr. Killebrew mentioned, we certainly share.

9               Mr. Harness mentioned one of the big -- you  
10       know, we're making these changes somewhat quickly. I  
11       agree with your sentiment that it feels like drinking  
12       with a firehose. The change that Mr. Harness brought up  
13       around leaving the definition of serious use of force in  
14       the CASA, how it doesn't exactly line up with these  
15       three levels of forces, is an important one.

16              Another one that I was just reminded of, in  
17       hearing the taser discussion earlier, is that my  
18       understanding is that a Level 2 use of force involving a  
19       taser means you deploy a taser, but that it misses. A  
20       Level 3 use of force is deploying a taser, and it hits,  
21       and using it three or more times in the same interaction  
22       over a period of 15 seconds or longer than 15 seconds.  
23       You know, if you deploy the taser twice or if you deploy  
24       it for ten seconds, it's not clear that it fits into  
25       either of those levels.

1           So some of those details, we agree, still need  
2       to be worked on, as far as we could assess.

3           The other point I wanted to bring up was  
4       around policy development. We're very excited to see an  
5       effort to bring the Police Oversight Board more into  
6       this process. That's a fundamental part of the POB's  
7       mission, so we think that's important. That, again, is  
8       a work in progress. We agree with Mr. Peter Cubra's  
9       comments that anything that we can do to simplify that  
10      and clarify that for the public -- I have a hard time  
11      explaining in my own mind how all these different pieces  
12      fit together.

13          I think if we want members of the public to  
14      engage in that process, if they sort of care about how  
15      their Police Department operates, it's going to be hard  
16      to figure out, to explain to them how to plug into that  
17      system. And for that reason, you know, there is still  
18      some work to be done there. But it is exciting to see.

19          Ms. Koenigsberg, right before this meeting,  
20      pointed out that we are going to need a new Mobile  
21      Crisis Team policy that's developed over the next year  
22      or so, and to see that work through these different  
23      pieces I think is -- it's going to be an exciting way to  
24      test the process and see how it's working.

25          To close, we echo what everyone said. Happy



1 to see this incredible new tone. It does seem like  
2 night and day to us. After three years of obstruction  
3 and playing games, it finally feels like the adults are  
4 in the room. We are very happy, Your Honor, to hear  
5 that you'll stay on the case and that Dr. Ginger will  
6 stay on the case. We do believe this is a recipe for  
7 success.

8 We are very optimistic about the future of  
9 this reform process, and APD Forward is eager to  
10 collaborate and play a constructive role in that  
11 process. And we just thank you that we have the  
12 opportunity to do that, because we do understand that  
13 that's not always the case with these other Consent  
14 Decree processes that are occurring in these other  
15 communities.

16 Thank you.

17 THE COURT: Thank you, Mr. Allen.

18 And to all of the amici, you're telling me  
19 today that you've got access, maybe that you haven't had  
20 before, and you feel like your voices are being heard  
21 like they haven't been before. I expect that you will  
22 continue to closely oversee this process and give the  
23 feedback that's critically important to DOJ, to the  
24 City, to APD. And if you at some point feel like that  
25 access is being touted and not actually given, then I

1 want to hear about that, too.

2 Let's see where we are. Mr. Sylvan on behalf  
3 of the Community Policing Councils.

4 MR. CHRIS SYLVAN: Good afternoon, Your  
5 Honor.

6 THE COURT: Good afternoon.

7 MR. CHRIS SYLVAN: My name is Chris Sylvan.  
8 I'm the Community Policing Councils Manager. I also  
9 wear another hat. I'm the Community Outreach Manager  
10 for APD. So I have dual roles now for APD.

11 And before I forget, I'd like to say that  
12 there are two CPC members who are here. One is going to  
13 speak. Her name is Dorothy Woodward. She is with the  
14 Northeast CPC. Rod Kontny -- I'm not going to pronounce  
15 his name right -- is also here. He's the Chair of the  
16 Foothills CPC. Rowan Wymark is the Chair of the Valley  
17 CPC.

18 So anyway, today I'm supposed to talk about  
19 what my role is with the CPCs. I am the Manager of the  
20 CPCs, and what I do is give them administrative support.  
21 One of the things I needed to do was address the  
22 confusion about what APD's role is with the CPCs, and we  
23 want to engage in a meaningful way while respecting the  
24 individual entities of the CPCs. So basically, the CPCs  
25 are individual entities; but at the same time, you know,

1       they need some help administratively, and that's why  
2       Mayor Keller appointed me to this position.

3               We want the CPC members to know that we want  
4       to hear from them and their recommendations are  
5       important. And because of this, I've set up a weekly  
6       meeting with the Chief, and we're going to go over those  
7       recommendations on a weekly basis.

8               One of the things I've done since I've joined  
9       -- excuse me -- since I've been appointed to this  
10      position is, I've streamlined the recommendation  
11      process. I've looked at it. It was very clunky. And  
12      this process will now have a flow. I even showed Dr.  
13      Ginger what the process looks like. I mapped it out.  
14      He enjoyed it because mapping out a process --

15              THE COURT: Because he likes maps.

16              MR. CHRIS SYLVAN: Yes. And I found that  
17      out.

18              So I guess the other thing I'm supposed to  
19      talk about is ways the administration is re-engaging the  
20      CPCs, and I will fold in not only the CPCs, but I also  
21      will fold in the Community Outreach. We are undergoing  
22      an aggressive social media campaign. We're getting  
23      ready to hire a social media manager to do better  
24      outreach. Right now, our outreach is not as good as it  
25      could be, but it's going to get better just because

1 we'll have somebody dedicated to that.

2 We're also reaching out to under-represented  
3 communities. I personally have been to meetings with  
4 the Chief and the Deputy Chief, Deputy Chief Medina, to  
5 different organizations that they haven't attended to in  
6 the past. We have an electronic billboard campaign,  
7 apparently, underway. I don't know if you can see that  
8 here, but this is what went up on the billboard. It  
9 says, "Help Protect ABQ's Youth. Join A #CPC Today."  
10 So that's one of the ways that we're trying to increase  
11 membership and also attendance.

12 THE COURT: And how does that contrast with  
13 previous outreach, if there was?

14 MR. CHRIS SYLVAN: Since I'm new to the  
15 position, I'm not sure how to answer that question,  
16 Your Honor, but I'm hoping that with new eyes and with  
17 the aggressive campaign that I'm doing -- previously, I  
18 was working for Councilor Gibson, and I know you've  
19 seen her in these courtrooms before. She's the  
20 Councilor for District 7.

21 And I know that you really have to be  
22 aggressive with outreach. So moving forward, we will  
23 also be advertising on Spanish-language radio stations  
24 soon. I'm going to be doing an interview on GOV TV.  
25 That's our cable access channel. And that will give us

1 something to go on the road to talk about what CPCs are  
2 and different things in APD.

3 Because of these things that are in place and  
4 going to be in place, applications are up since I've  
5 taken the job in January, mid January. One of these  
6 days, I'd like one of my CPC Chairs to come up to me,  
7 back to the Spanish-language radio station  
8 advertisement, come up to me and say, "Hey, we need a  
9 Spanish-language interpreter."

10 I want to have a good problem like that. I  
11 also want to have a good problem where we need a signer  
12 or any other interpreter.

13 As far as recommendations go, recently the  
14 Foothills put out a recommendation. They were concerned  
15 about auto theft. We worked with the Albuquerque  
16 Journal to have the auto theft prevention tips published  
17 in last Sunday's Journal. This was a recommendation  
18 that came out of the CPCs -- excuse me -- the Foothills  
19 CPC, I think in February, and it's already implemented.

20 We're also creating a comprehensive public  
21 information campaign to go along with efforts to target  
22 auto theft throughout the city. That's another part  
23 that came out of the Foothills recommendation.

24 One of the other highlights that's come out of  
25 the CPCs is the Northeast CPC's request for a shortened

1       Citizens Police Academy, and that has actually been in  
2       place. In fact, several of our members went through it  
3       a couple of weeks ago. That recommendation came on  
4       board before -- that recommendation was put in before I  
5       started.

6               Other recommendations have been --

7               THE COURT: Excuse me. What's the length of  
8       the Academy now?

9               MR. CHRIS SYLVAN: It's two weekends. And I  
10      believe it was -- six weeks?

11              UNIDENTIFIED SPEAKER: Twelve weeks.

12              MR. CHRIS SYLVAN: Thank you. Twelve weeks.

13              THE COURT: And it's how many hours over two  
14      weekends?

15              UNIDENTIFIED SPEAKER: Two days a week, three  
16      hours per night, is what we were doing before. I'm  
17      sorry. I'm sorry, Your Honor.

18              THE COURT: And I'm interested to know now.  
19      It's two weekends, you say?

20              MR. CHRIS SYLVAN: Right.

21              THE COURT: How many hours? Can anybody tell  
22      me that, how many hours that is over two weekends?

23              MR. ERIC GARCIA: Your Honor, I believe it's  
24      32 hours, eight hours each day.

25              THE COURT: Okay. Thank you.

1 MR. CHRIS SYLVAN: And the POB members also  
2 were at that shortened Academy.

3 Another highlight that I want to point out  
4 that the Valley CPC implemented, and this was before I  
5 took this position, they implemented -- they requested  
6 bike patrols, and bike patrols have been put in place.

7 The Southeast also mentored -- the Southeast  
8 put in a proposal for a mentor program for APD recruits,  
9 and that was put into place.

10 And the Southwest put a response to verify the  
11 injury accidents.

12 That was another thing that the CPCs have done  
13 in the past. Because I know that you have heard about  
14 the CPCs, but I'm not sure if you've heard what the  
15 recommendations and what the processes have been and how  
16 the recommendations have been implemented.

17 So NYPD leaders visited Albuquerque a few  
18 weeks ago, and they left a strong message, in my mind,  
19 and I think this applies to CPCs. Officers shouldn't  
20 strive to police the community. The goal should be to  
21 reduce crime, hand-in-hand with the community. And I  
22 hope that that's what we can achieve with the CPCs.

23 THE COURT: Thank you, and thank you for --  
24 well, congratulations on your promotion or whatever it  
25 was.

1 MR. CHRIS SYLVAN: It was a promotion.

2 THE COURT: Thanks. Thanks very much and  
3 congratulations. I appreciate your service.

4 Was there someone else that was going to  
5 speak, one of the CPCs?

6 MS. DOROTHY WOODWARD: Good afternoon, Your  
7 Honor.

8 THE COURT: Good afternoon.

9 MS. DOROTHY WOODWARD: And thank you for the  
10 comments about this building. Forty-nine years ago, I  
11 stood here and raised my right hand to protect the  
12 Constitution and joined the military. This is my home  
13 town, and I knew this building very, very well for a  
14 long time. It is remarkable. Thank you for your  
15 comments.

16 THE COURT: I love it. And I brought my CRD  
17 and my law clerk. They'd never seen it before. We got  
18 here early so we could tour the building, and it really  
19 is a treasure.

20 MS. DOROTHY WOODWARD: It is. Soak it up.

21 I'm here today because our chairperson, Eric  
22 Olivas, cannot be with us, and he has asked me to impart  
23 these words on behalf of our Council.

24 Eric says: I believe I speak for many when we  
25 say that the new administration offers CPCs and our



1 community at large a breath of fresh air. While Mayor  
2 Keller and Chief Geier have been on the job only a few  
3 months, we have closely observed their priority to place  
4 community policing for support groups like CPCs which  
5 aim to further community involvement. We have seen an  
6 uptick in that engagement and increased interest in  
7 police policy and reform. For example, in January at  
8 our meeting, Chief Geier was our guest speaker, and  
9 Deputy Chief Garcia.

10 I like them.

11 THE COURT: There you go.

12 MS. DOROTHY WOODWARD: We had 80 members of  
13 the community participate. The dialogue was positive  
14 and productive. The future of Community Policing  
15 Councils appears bright in this city, especially now  
16 that we have new APD leadership, and we look forward to  
17 further grow a productive relationship.

18 That said, it is our hope that the new  
19 administration will continue with this support, while at  
20 the same time engaging CPCs in meaningful ways. For the  
21 spirit of the Settlement Agreement to outlive this  
22 document, groups like CPCs and POBs must be empowered  
23 and interwoven into the fabric of policy and  
24 decision-making at APD. We look forward to a healthy  
25 relationship with APD, knowing there exists other

1 challenges before us, some of which we have stated here  
2 in your Court, Your Honor.

3 Thank you.

4 THE COURT: Yes, ma'am. Thank you.

5 MS. DOROTHY WOODWARD: Do you have any  
6 questions?

7 THE COURT: No, ma'am.

8 MS. DOROTHY WOODWARD: Okay. Again, I'm not  
9 shy. Some of the gentlemen at these tables will tell  
10 you, I've already let them know where I'm coming from.  
11 I'm watching. Elizabeth knows, too.

12 THE COURT: I believe you are.

13 MS. DOROTHY WOODWARD: And Ed Harness.

14 MR. ROD KONTNY: Again, I'm Rod Kontny. I am  
15 chair of the Foothills CPC. I will tell you that  
16 spending 30 years in the Air Force logistics did not  
17 prepare me for this job, because it is unique, and I'm  
18 starting to enjoy it.

19 I did go through that Civilian Police Academy,  
20 the short view. It was four days, eight hours each day.  
21 The eight hours on use of force was pretty grueling. I  
22 will tell you that.

23 So at any rate, I just want to say a few  
24 things about that the CPCs are very important because it  
25 allows the citizens to ask, or sometimes confront the

1 police officers who are there, and the police officers  
2 then give them their opinions or their actions or the  
3 regulations and so forth. And that's very helpful, very  
4 frankly.

5 And the other thing is, of course, the  
6 recommendations. And we put that one in about how to  
7 protect your vehicle, and Chief Geier acted on it right  
8 away, got me up there. I've never gotten an e-mail from  
9 a Chief before, so that was kind of interesting. And so  
10 we had a meeting in his office, and we concluded, and  
11 some good things came out of it, and they're working on  
12 other things.

13 I want to say, shortly, one other thing, and  
14 that is, I go on ride-alongs. Last year, I went on one  
15 and I had the opportunity to talk to some police  
16 officers, guys that are in the squad cars, and the  
17 sergeants and the commanders. I never got above that.  
18 But it was very interesting, talking to these young  
19 officers, and that they did in fact embrace the CASA.  
20 They thought the CASA was a good thing. They didn't  
21 like some of the things that APD was implementing to  
22 make them do certain things, and they were very upset  
23 about that. But recently, I've been talking to some of  
24 them, and they have a different attitude now, and I  
25 think it all comes from the new administration.

1           So at the very level that some of you don't  
2     get to, where you talk to police officers on the street,  
3     or the sergeants, or maybe the lieutenant, and I can do  
4     that, and I find it very encouraging, as everybody does  
5     within the administration.

6           So that's all I have.

7           THE COURT: Thanks very much. Thank you.  
8     You know, you're volunteers and nobody pays you to do  
9     this. You don't do it for the glory, I suppose. So  
10    you do it because you love your community and you want  
11    to make it a better place, and I appreciate that. I  
12    think we all do. And I am glad that we've got some  
13    folks that aren't shy in those positions.

14          Thank you very much.

15          MR. ROD KONTNY: Okay. Thank you.

16          THE COURT: And Mr. Whatley is following you.

17          MR. DANNY WHATLEY: Thank you, Your Honor.

18          THE COURT: Yes, sir.

19          MR. DANNY WHATLEY: I'll make this very  
20    short.

21          First, Your Honor, I want to thank you for the  
22    opportunity to speak, but also that the MHRAC has been  
23    provided copies of the stipulations and the Compliance  
24    Plan, and we're in total agreement with that and the  
25    motivation for that. We certainly see it is something

1       that will move the CASA along.

2               As you're aware, the MHRAC responsibilities as  
3       spelled out in the CASA have us dealing with those  
4       interacting with law enforcement that are in mental  
5       health crisis, and are also maybe experiencing  
6       homelessness.

7               And with that, again, with the CASA outlining  
8       those things, we created three subcommittees --  
9       training, resource sharing or information sharing, and  
10      resources, and those three subcommittees continue to  
11      work with APD. And when the Mayor was speaking, he  
12      talked about the Department looking at the CASA, at the  
13      letter and the spirit.

14              And I'm here to assure you that the CIU and  
15      the folks that we've dealt with have always had the  
16      spirit of the CASA. They've always looked at it as  
17      being a change in attitude, a change in direction for  
18      law enforcement in our city. And I think that was from  
19      their leadership. Chief Garcia was primarily  
20      responsible for that.

21              But one of the successes that we have had has  
22      been in the area of training. I was in law enforcement  
23      for 33 years, and during that time we sort of ran away  
24      from civilian interference or relationships with  
25      civilian instructors in our Academy. APD has now turned

1 and gone in the opposite direction.

2 And we just had a CIT training, a Crisis  
3 Intervention Training session, the first of March, and  
4 18 hours of that 40-hour training was conducted by MHRAC  
5 membership, so they're bringing in the MHRAC expertise  
6 that's within that committee. And 17 hours of that  
7 40-hour class was provided by non-law enforcement  
8 professionals in our community. And, again, that is --  
9 I think Chief Garcia is certainly responsible for that,  
10 to see that change.

11 But the CIU has been one of those that has  
12 become the professionals in dealing with those and  
13 dealing with mental health crisis. As I think Dr.  
14 Ginger will tell you and the Department of Justice will  
15 tell you, they've become very impressive, in fact,  
16 traveling all over the United States, teaching that  
17 model that they're using here.

18 In the old days, we used to look at the  
19 Memphis model, and I truly believe that in the future it  
20 will be the Albuquerque model because of the guys and  
21 the folks that are involved in this training.

22 And the APD officers and the civilians within  
23 that division, within CIU, have made that a very  
24 professional way to deal with folks. They're working in  
25 the homeless community. We're seeing more and more

1 homeless that are experiencing and involved in mental  
2 health crisis, and we are seeing the change in officers  
3 as they interact with those experiencing that crisis and  
4 how they deal with the people that are doing that. But  
5 they're not only dealing with the individuals in crisis,  
6 but they're dealing with their families and they're  
7 dealing with the community in general.

8 When we started the MHRAC years ago now, we  
9 had two goals in mind. One was to provide law  
10 enforcement with the training and the policies and  
11 everything that they needed to safely do their job,  
12 safely for everybody involved. But the second part of  
13 that was so that we might could instill in our community  
14 the trust and faith in our officers here in Albuquerque.  
15 And I think even though we've got a long way to go,  
16 we're going in the right direction. And we look forward  
17 to working with the new administration and the new  
18 command staff at APD.

19 Thanks, Judge.

20 THE COURT: Thank you, Mr. Whatley. Thank  
21 you for what you do. I think that concludes the  
22 comments from the amici.

23 The final item on the agenda is an update on  
24 CASA-related community engagement.

25 Ms. Martinez.

1 MS. ELIZABETH MARTINEZ: Thank you, Your  
2 Honor.

3 As you know, Judge, Mayor Keller took office  
4 on December 1st of last year, and his first order of  
5 business was to appoint Chief Geier to lead APD. Today  
6 is March 15th, and so Mayor Keller and Chief Geier have  
7 been on the job for 104 days. That's only 75 weekdays,  
8 so they've actually been on the job only 15 weeks.  
9 They've accomplished a great deal in a very short period  
10 of time.

11 Today, they've talked about three very  
12 significant documents here. They've talked about two  
13 documents that are setting the path for the way forward,  
14 and Deputy Chief Garcia has talked about a pretty  
15 comprehensive Compliance Plan. And together, these  
16 three documents are setting the infrastructure to put  
17 APD back on track to come to full and complete  
18 compliance with the CASA.

19 And this has been a real heavy lift for the  
20 entire Department, but particularly Chief Geier, Deputy  
21 Chief Garcia, Lieutenant Lowe, the folks that are  
22 working with them, and folks like Commander Sullivan,  
23 certainly Assistant City Attorney Jeramy Schmehl. These  
24 folks have been working tirelessly, virtually around the  
25 clock, and they deserve tremendous credit for a



1        tremendous amount of work, and I am -- we are all just  
2        amazed at how much work has gone on.

3                And one of the things that is remarkable in  
4        all of this is that while all of this has been going on,  
5        the community engagement also has been moving forward.  
6        It hasn't been ignored. As you've learned, Deputy Chief  
7        Garcia has made sure that they have been reaching out to  
8        the amici and to the key stakeholders throughout this  
9        process to make sure that they're getting regular input,  
10       to make sure that they're being as transparent as they  
11       possibly can. And they've made commitment to the  
12       community to continue to have that transparency and that  
13       collaboration out there.

14               We applaud that, because that's how the City  
15       and APD is going to establish that relationship of trust  
16       that is critical to have APD be successful. Because  
17       unless we have APD re-establish that relationship of  
18       trust, even if they meet every single element of the  
19       CASA, without trust we're just not going to be  
20       successful. So we applaud all of these efforts that APD  
21       and the City is making to reach out to the community, to  
22       work with the community, to re-establish that critical  
23       trust with our community.

24               I want to also commend the City and APD for  
25       the work that they have been doing with the CPCs.

1       You've heard about the work that the Academy did in  
2       terms of revamping the CPAs so that they could  
3       accommodate the CPCs and the Police Oversight Board, the  
4       condensed CPAs. I actually participated in that  
5       condensed Academy also. And, as Mr. Harness commented,  
6       there were some concerns voiced by participants on the  
7       use-of-force instruction, and that critique was raised  
8       with the City and with APD, and the response immediately  
9       was, "Bring it to the table. Let's discuss it. We will  
10      address those concerns." And, in fact, we expect to  
11      have those meetings as early as tomorrow.

12               So that is the response we're getting these  
13      days from the City and from APD. It is an immediate  
14      reaction. It's very much the same kind of response that  
15      the Community Coalition and Mr. Arellanes got when they  
16      raised a concern about the taser and the manual. And  
17      that is the reaction we're getting from the new  
18      administration, and it's all very positive, and it's a  
19      very lovely change.

20               In terms of the community engagement, you've  
21      heard from Mr. Sylvan and you heard from some members of  
22      the CPC earlier today. One of the things that they  
23      didn't mention is that last night, Mr. Harness and the  
24      CPOA hosted the sixth CPC summit. The Mayor was at the  
25      summit last night, and this was, as I said, the sixth

1 CPC summit. It is the first time that the Mayor, a  
2 Mayor, has attended a CPC summit. And the Mayor  
3 addressed the summit, he engaged with all of the CPC  
4 Chairmen. And I'm also delighted to report that it is  
5 the first time that the Chief of Police also  
6 participated in a summit. And I think that speaks to  
7 the value that our Mayor and our Police Chief place in  
8 the role that the community has in this process.

9 One of the things that members of the  
10 community have raised with us and have raised in some of  
11 the meetings we had last week and this week is the fact  
12 that they have not had the community meetings that they  
13 got used to having since 2012, when DOJ began its  
14 investigation into APD. You may recall that when we  
15 initiated our investigation, DOJ started having  
16 community meetings to keep the community informed about  
17 the investigation. When we announced our findings, we  
18 also had community meetings to inform the community. We  
19 continued having those meetings when Dr. Ginger released  
20 his reports.

21 And we ceased having those meetings when the  
22 former City Attorney indicated that she believed that  
23 the City should take that responsibility. We agreed  
24 with that view because we did think that that was a  
25 responsibility that the City should assume. But the

1 City did not step forward. So in 2017, those meetings  
2 did not occur.

3 We have a new member of the City  
4 administration who has a very rich history of working  
5 with the community and dealing with community  
6 engagement, Mr. James Lewis. He and I have had some  
7 discussion about this, and I know that he is going to be  
8 working in this area. We anticipate that the City will  
9 be reengaging with the community in this area and will  
10 go back to engaging with the community at large.

11 I believe that we have discussed in these  
12 proceedings with this Court, with our community, that  
13 Albuquerque has been unique amongst communities that  
14 have Consent Decrees. Our community has demanded to be  
15 kept informed. Our community has insisted that they  
16 know what is going on with our process and has insisted  
17 that the Department of Justice, that the City of  
18 Albuquerque, that APD, and that this Court keep them  
19 informed of what is going on.

20 And all of us greatly appreciate that you have  
21 included the community, the amici, the stakeholders in  
22 this process, and we are very appreciative of the fact  
23 that the Mayor has brought Mr. Lewis on into this unique  
24 role and that he will be part of keeping the community  
25 engaged in this process.

1           Thank you, Judge. Unless you have any  
2           questions, I will relinquish the floor to, I think,  
3           Deputy Chief Medina.

4           MR. HAROLD MEDINA: Good afternoon, Your  
5           Honor. My name is Deputy Chief Harold Medina, with the  
6           Albuquerque Police Department. I retired in 2014, and  
7           I returned back to the Police Department recently with  
8           the new administration.

9           My focus is community policing. I think that  
10          we need to understand community policing, and we need to  
11          make sure that we move forward with the three principles  
12          of community policing, not established by me, but  
13          established by the COPS Office, and that is community  
14          partnerships, problem solving, and transparency in the  
15          Department.

16          And as you stated earlier, the proof is where  
17          the rubber meets the road. And I will be brief on some  
18          of the projects that we've already started, but I think  
19          that the cornerstone of the Albuquerque Police  
20          Department gaining legitimacy within the community again  
21          is the rebuilding of trust within the community. And  
22          the rebuilding of trust within the community goes beyond  
23          community engagement with meetings about the CASA. It  
24          goes into the principles of developing relationships  
25          with the community.

1                   And historically, the Albuquerque Police  
2     Department had relationships with the community at the  
3     Neighborhood Association level, and you had a commander  
4     and lieutenant who attended all of these meetings, and  
5     they had great relationships, and everybody in the  
6     community knew who the commander and lieutenant were.

7                   But there is one thing I promise you that was  
8     a fault in that system, is when that person's car got  
9     broken into at 6:00 in the morning, the commander and  
10    the lieutenant are not the ones that are taking the  
11    police report.

12                  So what we're trying to do is, we're trying to  
13    shift the focus from the relationship being built with  
14    the upper command staff, to the relationship with the  
15    community being built with the officers, and that we  
16    spread out from the concept of just meeting and  
17    community engagement with Neighborhood Associations.  
18    We've already met. We've established a series of Coffee  
19    with a Cop that were pushed forward by neighborhood  
20    organizations. I think we have a total of 26 that are  
21    going to be occurring in the next month or so in the  
22    various area commands. I think 12 are already  
23    scheduled, to my knowledge.

24                  We are also reaching out for youth engagement.  
25    We will have our first Youth Coffee with a Cop at

1 La Cueva High School on the 22nd.

2 And I think that all of these are just ways  
3 for us to engage the community. We have already begun  
4 planning Junior Police Academies, no longer at the  
5 Police Academy at APD, but we're taking them to the  
6 Community Centers at each area command, and our goal is  
7 to have that first positive experience with youth and  
8 police officers so that it's in a positive way, not in a  
9 negative way.

10 I think that as we move forward, it's  
11 important to recognize that we have been in office 15  
12 weeks, we've been here, and we've already made a lot of  
13 commitments and we've already taken a lot of steps to  
14 develop a lot of this community engagement. But the  
15 last piece of community policing, I think, is what we  
16 all have to remember takes time, and that's  
17 transformation of a Police Department.

18 And this reform process has to be beyond  
19 checking a box that we're engaged with the community.  
20 It also includes changing the perception of our officers  
21 and how they view the public and how they interact with  
22 the public and ensuring that they recognize that they're  
23 public servants and that's what they're here for.

24 And in a way, Commander Sullivan has a large  
25 task there of assuring that every police officer who

1 comes out of the Police Department from this day forward  
2 recognizes that they're public servants, and that we  
3 install that belief in them as a core value in the  
4 Police Academy.

5 And like I stated earlier, I'll be brief.  
6 It's about where the rubber meets the road, and those  
7 are just small samples of a lot of the programs that  
8 we're already planning and implementing to interact and  
9 to help rebuild that bond of trust with the community.

10 Thank you.

11 THE COURT: Yes, sir. Thank you. And I'm  
12 sorry. Your rank?

13 MR. HAROLD MEDINA: Deputy Chief.

14 THE COURT: Deputy Chief, forgive me. Your  
15 name is Harold Medina?

16 MR. HAROLD MEDINA: Yes.

17 THE COURT: Do you know that you have a  
18 tocayo, a famous judge named Harold Medina?

19 MR. HAROLD MEDINA: Yes, I know that.  
20 Somebody once told me that, and I think he was out of  
21 New York.

22 THE COURT: He was, and he was a great man,  
23 and a good study for you to see what your heritage is  
24 in terms of your name.

25 MR. HAROLD MEDINA: Thank you.



1 THE COURT: Yes, sir. Thank you.

2 Oh, I just always try and, you know, add a  
3 little something.

4 Mr. Mowrer.

5 MR. FREDERICK MOWRER: Your Honor, in the  
6 lateness of the hour, APOA has no comment on this  
7 subject.

8 THE COURT: It occurs to me, we might start  
9 these meetings at 5:00, and maybe they would be wrapped  
10 up more quickly.

11 Mr. Schmehl, you're on the agenda for this  
12 issue, or Mr. Aguilar.

13 MR. JERAMY SCHMEHL: Deputy Chief Medina took  
14 care of it.

15 THE COURT: Okay. Great.

16 And Dr. Ginger.

17 DR. JAMES GINGER: Yes, sir. Thank you, Your  
18 Honor. I'm keenly aware that protocol requires me to  
19 face the Court when I'm addressing you, speaking, so  
20 I'll apologize in advance for turning my back on the  
21 amici who have been up here before. But I only get in  
22 trouble with the Judge, so --

23 THE COURT: You know what? If you'd rather  
24 face that way, that's fine with me, except Ms. Goehl --  
25 well, we've got a mic here.

1 DR. JAMES GINGER: We could do this. Let's  
2 see if this works.

3 CRD JESSICA CHAVEZ: Here's a microphone.

4 DR. JAMES GINGER: Okay. That will work. I  
5 was just trying to avoid contempt, Your Honor.

6 THE COURT: As you should.

7 DR. JAMES GINGER: Always a wise choice.

8 THE COURT: Good call.

9 DR. JAMES GINGER: As the amici were  
10 speaking, I was taking copious notes, none of which  
11 I'll be able to read, but I'll try to get through them.

12 Mr. Cubra had some issues and questions about  
13 the reset period and where's the report that reflects  
14 progress or not, in lieu of doing the direct technical  
15 assistance. We have done technical assistance since Day  
16 One. We've done nothing but technical assistance since  
17 Monday here, right now. It comes in many forms. Most  
18 of us think of it as consulting trips.

19 And we've spent a great deal of time with DC  
20 Garcia and his folks and Jeramy Schmehl and other folks  
21 with APD this week, talking about the reset and where we  
22 plan to go. Other members of the Monitoring Team will  
23 follow in on that. Their purposes is twofold. One is  
24 to collect data that continues to inform me of APD's  
25 progress on this project; and the second is to provide

1       needed technical assistance.

2               I don't think anyone familiar with the last  
3       two and a half or three years would argue the fact that  
4       -- and I do this a lot lately; I talk about the old APD  
5       and the new APD. I don't think anyone who is familiar  
6       with the old APD would suggest they didn't require  
7       technical assistance. And I don't think anyone familiar  
8       with the new APD doesn't understand that they will go  
9       out of their way to ask for, listen to, and respond to  
10      technical assistance. And if I've gotten anything this  
11      week, I've gotten that message.

12              More directly to Mr. Cubra's point, a couple  
13      of things. We're reducing the reporting workload this  
14      time, so our reports will be much more succinct and much  
15      more summary related than being the monstrosities they  
16      usually are, 400 to 500 pages.

17              That serves a couple of purposes. First, it  
18      gives the new APD a chance to catch its breath, get its  
19      feet on the ground, huddle together, and make its plans  
20      for moving forward. And that's intentional. I designed  
21      that intentionally because I wanted to avoid them  
22      showing up for work on Monday morning and being faced  
23      with a list of staccato demands by a Monitoring Team for  
24      "what have we done recently about," which is our usual  
25      process.

1           So I think with this process, we'll be able to  
2       avoid the one thing I hate most of all in managing a  
3       project, which is asking for more money. I really hate  
4       to do that, and I've done everything I can do not to  
5       foist that off on the citizens of Albuquerque.

6           And secondly, with the intense interactions  
7       that we're having with APD personnel, Chief Garcia and  
8       Lieutenant Lowe are going to be sick of me by the time I  
9       leave Friday. But that's okay. I hope we've given them  
10      enough technical assistance to get to a running start on  
11      jump-starting their Compliance Bureau. When I leave,  
12      we're available by phone seven days a week. Often,  
13      sometimes, maybe, we work on Saturdays. And if need be,  
14      we will.

15          DC Garcia has known all along, from Day One,  
16      that that has always been the case. And one of the  
17      reasons he got his units in compliance faster than  
18      anybody else was, he took advantage of it. He didn't  
19      mind asking us questions while we were here on-site, and  
20      he didn't mind making phone calls to my subject matter  
21      experts to ask questions and get clarifications. And  
22      that's why his units were among the very first to roll  
23      into compliance.

24          So we've got a twofold approach on this site  
25      visit that is different from the other site visits.

1 We're collecting less data. We're asking more pointed  
2 questions to determine whether or not processes are in  
3 place, that should be in place, as opposed to asking for  
4 50 reams of paper or five electronic disks for data that  
5 we can go through and say, "Okay, this one is dated  
6 February, this one is dated March, this one is dated  
7 April," which is what we do. And that's, as you can  
8 imagine, very painstaking and labor intensive.

9 So the proposal I made to the parties was to  
10 throttle back a little on data collection and analysis  
11 this reporting period, throttle up on technical  
12 assistance, and still give the Court and the Albuquerque  
13 citizens an understanding of our assessment of APD's  
14 compliance status for this period of time. And that's  
15 what those two interim reports are for.

16 So you'll get a little bit of both. It will  
17 give my team and I time to give whatever technical  
18 assistance APD needs, requests within reason -- within  
19 reason -- and get them restarted, and get them to where  
20 we think they should have been, hopefully by the end of  
21 the next reporting period. They're not going to start  
22 from zero to 110, either. I hope. You know, the  
23 process would militate against it.

24 I didn't tell you these notes were legible, so  
25 bear with me for a second.

1           For the LULAC group, Mr. Arellanes and Dean  
2 Mathewson, I had already encountered the issue that Mr.  
3 Arellanes raised in the parties' meeting -- was it last  
4 week? I'm losing track of time. I immediately, when  
5 that issue came up, sent out to the parties and to APD  
6 operational personnel the current taser operating  
7 manuals. And obviously, they already had in their  
8 possession the current policies here.

9           We're in the process of going through the two  
10 of those things, and I can tell you right now from my  
11 initial review -- we haven't completed it -- but from my  
12 initial review, APD policy and training is compliant  
13 with taser documentation. Now, that's not finished. We  
14 have a few more stones to turn over to make sure whether  
15 or not that's the case. But we were on that process the  
16 day Mr. Arellanes raised the issue, and I hope -- in  
17 fact, I know -- that some folks at APD will use that  
18 same model in community relations and questions from the  
19 community.

20           But we're not finished yet. We've got to get  
21 APD's responses, and we've already gotten some from the  
22 Union, and we'll put a final packet together. But  
23 everyone who is on the mailing list for that meeting got  
24 a copy of those policies for tasers. And those are the  
25 latest we could find; we couldn't find any after that.

1       So you have the very latest that I know Taser has put  
2       out, and we're working on that process.

3               The UNM folks who asked about demographic  
4       data. We've been familiar with that issue for quite  
5       some time. In fact, the last site visit, I spent some  
6       time with Dean Mathewson discussing that. My guess,  
7       Dean, is that you'll find the new APD a little more  
8       receptive to those issues and the needs of the  
9       community. If you don't, sir, please let me know, and  
10      I'll try to work through with Chief Geier and some of  
11      his people a reasonable response to your reasonable  
12      requests.

13             I think I spent the better part of an hour and  
14      a half in your office the last time we met with the Dean  
15      and other folks from UNM, talking about this issue and  
16      potential solutions to it. And I think if we reboot  
17      that question, we might find some different answers  
18      right now. So if we can try that, I'd be happy to try  
19      to facilitate it if you'd like. I know you're not shy,  
20      but if you'd like me to participate, I will.

21             There's a note here that I just simply can't  
22      read, so I apologize.

23             For Director Harness with CPOA, Ed and I are  
24      both former police officers, so we tend to be on the  
25      same wavelength a lot of the time. He has some

1       legitimate concerns about recommendations from CPOA that  
2       go to the Chief for actualization or decision-making.  
3       And, again, those reservations were well-founded.  
4       Again, I think you'll find a different audience with the  
5       new APD in town, so to speak. I think Ed is still here.  
6       Yes, there he is. There's a glare; I can't see you.  
7       Sorry. I think you will find a different reception. If  
8       you don't, then let's sit down and talk about it, and  
9       we'll see where we can go from there.

10               I only took 16 pages of notes. Be patient.

11               Regarding the Force Review Board issues, those  
12       issues raised were cogent, well presented, and correct.  
13       We have the same issues. The Monitoring Team has the  
14       same issues. So we'll be working with Chief Garcia,  
15       Chief Geier, and his folks, to ensure that the new Force  
16       Review Board is, I would hope, a model for the industry;  
17       and if not a model for the industry, then certainly  
18       congruent and compliant with the current best practices.

19               That's an issue we have on our radar, probably  
20       not the site visit. We're still trying to get the car  
21       started again, and that sometimes requires a lot of  
22       attention. But it's on the agenda, and we look forward  
23       to working with APD to get that moved forward. I don't  
24       think any of you who read our reports think that we  
25       think the FRB process is a good one. I spent a lot of



1       ink and a lot of paper talking about the FRB process.

2               So I forget who this comment came from, but  
3       you and I are in agreement. We need to reconfigure it.  
4       We're in the process now of thinking about that among my  
5       team and myself, and the next site visit, after this  
6       one, we'll be in the process of assisting, as much as we  
7       can, getting APD up and running on revisions to that  
8       process.

9               One thing I wanted to do -- I think everybody  
10      understands it; but if not, I'm going to say it again.  
11      There will be no routine, normal IMR 7. We'll be using  
12      the money that we usually spend writing that 500-page  
13      document in providing technical assistance and training  
14      to APD to jump start their new processes. So you'll get  
15      two mini reports instead. We have to keep the Court  
16      informed what it is we're doing; and how we're doing it;  
17      and what kind of reception we're getting at APD; and  
18      mistakes that we've made; and that sort of thing. So  
19      those two reports will be used for those purposes.  
20      There will not be a normal IMR 7, and that's where the  
21      money comes from to do this reboot, the technical  
22      assistance reboot.

23              I've failed the Court again. I took a note  
24      and I can read it, but I don't understand what it meant.  
25      I apologize. APD Forward. Where are you guys? You and

1 I need to talk, because this is your note. So I don't  
2 know -- I know what the words say, but I don't know what  
3 they mean, so I'd like to revisit your concerns.

4 And I believe this is for APD Forward, as  
5 well, but I think you guys know that the Monitoring Team  
6 is not an easy Monitoring Team. We're aware of your  
7 issues and your concerns. We get them addressed by APD  
8 when we can, which some time ago wasn't all that  
9 successful. But I think, again, with the new APD, I'm  
10 finding the door is open, the lights are on, people are  
11 engaged, and they are deathly aware of the timelines  
12 that come in on their work. So if that doesn't change,  
13 I'll note for you, if it doesn't, then we need to sit  
14 down again like we've done before and develop some  
15 strategies. But I think you'll be pleasantly relieved  
16 at what you get out of this new group.

17 The issues of Level 1, Level 2, and Level 3  
18 uses of force, I think we're all painfully aware that  
19 that's a soft spot in this reboot. I flow-charted it,  
20 turned it upside down and in 14 different directions,  
21 trying to find fatal flaws with it. I found some flaws,  
22 but I don't think I found any fatal ones. I think this  
23 will work. And the thing I like about it is, it does  
24 what I told APD from Day One. It puts more sergeants'  
25 time on the street. And that's the only way out of this

1 Settlement Agreement, is effective supervision.

2 So we'll be monitoring for that. There will  
3 be things that come up that the Chief and I need to  
4 discuss in terms of what kind of monitoring processes  
5 they might want to set to work. My goal with that is  
6 that this becomes the internal Monitoring Team, we're  
7 the external Monitoring Team, and that we become  
8 simpatico about what our definitions are, what our  
9 concerns are, what our processes are, so that when we  
10 leave, you still have your Monitor; just a different set  
11 of folks.

12 For the CPC folks, Ms. Woodward and Mr.  
13 Kontny -- did I get that right?

14 MR. ROD KONTNY: Yes, sir.

15 DR. JAMES GINGER: Good. I don't know how  
16 you guys feel, but I know for a fact that this new APD  
17 group wants you vibrant and active, and they want your  
18 input. I've already seen evidence of that, and I think  
19 probably you have, too.

20 MS. DOROTHY WOODWARD: Yes.

21 DR. JAMES GINGER: So I wholeheartedly agree  
22 with your assessment of the way things used to be, and  
23 I wholeheartedly agree with your disagreement about  
24 those things. But this is a new bunch. I think you  
25 guys are going to be pretty happy.

1           But look at the meeting -- was it last night?  
2       Look at the meeting last night, compared to meetings a  
3       month or a year ago, and you see a huge difference. The  
4       Mayor was there. You know, that should tell us  
5       something. The Mayor. To my knowledge, the Mayor had  
6       never been to a CPC meeting under the old  
7       administration. So hang on. Change-is-a-coming, as  
8       they say.

9           Danny Whatley and his crew, Nancy, are you  
10      still here? Yes, there you are. Okay. You guys had  
11      the same concerns that we had. With the new leadership,  
12      I think you'll see a difference. If not, the same  
13      applies. If you don't see it, let us know, and we'll  
14      start working the drums again. I know the folks who are  
15      in charge of that process, and I know the new expertise  
16      that comes from Chief Geier and the new focus that comes  
17      from Chief Geier, and I would expect in the very near  
18      future that you guys are going to be probably getting  
19      asked more questions and asked for more input than  
20      you're able to provide.

21           But I've done a lot of future projection here  
22      tonight, so I hope everyone's aware of that. The proof  
23      is in the pudding, as the old saying goes, and the  
24      Monitoring Team here will be here as of IMR 8 in the  
25      same way, reporting what's good, what's bad, and what's

1 indifferent. And we won't go anywhere until DOJ says  
2 we're done. That's right. Until DOJ encourages the  
3 Judge and influences the Judge to believe that --

4 THE COURT: We're not done until I say we're  
5 done.

6 DR. JAMES GINGER: We're not done until the  
7 Judge says we're done, folks. Sorry, Your Honor.

8 As you can tell, the process, sometimes I  
9 forget about the last step.

10 I know it's late, but if there are any  
11 questions, I'll be happy to try to address them.

12 Thank you, Your Honor.

13 THE COURT: Dr. Ginger, thank you.

14 The hour, it's getting late, and I've got a  
15 bit of a drive still, so I won't take but a moment. One  
16 discrete issue, Deputy Chief, Mr. Arellanes talked about  
17 a couple of things, but one was personal harassment  
18 ongoing at his home and 12 cruise-bys, I would like you  
19 to look into that for me. You can address it now if  
20 you'd like, or get your facts together, however you want  
21 to handle it.

22 MR. ERIC GARCIA: Your Honor, I agree. Those  
23 are serious allegations, and I'm going to be requesting  
24 an investigation into that. That kind of behavior will  
25 not be tolerated. So, yes, I'll be requesting an

1 investigation into that, and I will be getting back to  
2 Mr. Arellanes, as well.

3 THE COURT: Please do. And keep me posted,  
4 maybe on a monthly basis, a 30-day basis or something.  
5 I'd like to know what the result of your investigation  
6 is, and we'll go there from. All right?

7 MR. ERIC GARCIA: Yes, sir.

8 THE COURT: Thank you. Thank you for your  
9 commitment.

10 Another discrete issue. Ms. Bautista is  
11 concerned, as I'm sure we all are, and certainly the  
12 taxpayers of the city of Albuquerque are, about a  
13 perceived spinning of wheels over the last couple of  
14 years and not making the progress that we all coveted.  
15 You talked in terms of looking back and recriminations  
16 against prior administrations. And frankly, that's not  
17 my job.

18 And if I wasn't attentive enough to that  
19 process and I didn't require of the City and the  
20 Department what I should have, as the overseer of this  
21 process, that's on me, and I'm sorry. I tried to  
22 address things as I was aware of them, and sometimes  
23 pretty publicly.

24 But whether any action is taken relative to  
25 them, that's not my job. That's somebody else. You

1       talked about criminal conduct. I'm not addressing that,  
2       I'm not going to comment on that, and that's the  
3       prosecutors' job, and if the prosecutors want to do  
4       something, that's their business. And probably that's  
5       going to be the last I'm going to say about that,  
6       because it's a new day and we have limited resources,  
7       and I don't want resources, limited as they are,  
8       directed backward-looking when we've got a lot of work  
9       to do yet going forward.

10               And I began today by telling you about my  
11       meeting with the Mayor and the Chief and the Deputy  
12       Chief, and the DOJ. I came away from that meeting as  
13       upbeat and even excited about this process as I have  
14       been throughout. And if you remember, we had a barbecue  
15       in this room because we had a good report in the midst  
16       of several bad ones, and I thought we ought to  
17       celebrate. I mean, it doesn't take much to get me  
18       excited in this process.

19               So I genuinely am hopeful. And you know what?  
20       We all know that verbalizing an intention is a nice  
21       thing, but it's only that. You know, you have to have  
22       commitment associated with that. And whatever the math  
23       was, 104 days, we've already seen some commitment in  
24       terms of resources being expended, new hires, a new  
25       Compliance Bureau being stood up.

1           When I was in Ft. Worth, hearing about that,  
2           about what New Orleans had in place and anticipate  
3           leaving in place after the Judge says they're done, I  
4           thought: Gosh, that's bound to be an expensive  
5           proposition.

6           And I know Albuquerque is struggling with  
7           their budget. Everybody is. But that has been very  
8           public in the last few months. I thought: Can I order  
9           that? Can I require that of someone, you know, of the  
10          City?

11          I get the Compliance Plan, and there's a  
12          Bureau stood up, and I didn't have to say a word. And  
13          that's commitment that backs up the Mayor's suggestion  
14          that he owns this result. So I'm pleased about that,  
15          and I am hopeful. And do we have a long road to travel  
16          yet? Absolutely, we do.

17          I've heard "rubber hitting the road" and "the  
18          proof is in the pudding" and, you know, I can throw  
19          another one in there, "a 10,000 mile journey starts with  
20          a single step."

21          And damn, you know, we should have been  
22          further along after three years. I get it. I know that  
23          to be true. But we are where we are, and we're not  
24          standing still anymore. We're moving. So I'm pleased  
25          for the commitment that I've heard from the City.



1           The DOJ is not going anywhere, and they're  
2 going to continue to monitor the process, as is our  
3 Independent Monitor.

4           And one of the things I took away from the  
5 thing in Ft. Worth: How do you make reform stick? That  
6 was one of the questions that was asked: How do you  
7 make it stick?

8           And one of the great answers, intuitive as it  
9 is: Make reforms that nobody wants to reverse; that the  
10 next administration wouldn't dare reverse; a Compliance  
11 Bureau that is doing the ongoing work of a Monitor for  
12 years to come; and making sure that they're policing the  
13 police themselves; and it works; and trust is restored.

14           And these are good things, and who's going to  
15 tear that apart? Who's going to stand that down? You  
16 know, the folks wouldn't stand for it. You create a  
17 system that is going to resist change. It sounds like  
18 that's what they have in mind.

19           So it's late. I really do appreciate  
20 everyone's participation, and I look forward to -- well,  
21 I don't think the schedule anticipates that I'll be back  
22 in this sort of forum until November. That's right,  
23 isn't it? I'm not getting any love here. Gosh, you  
24 know, I've forgotten that. But I'm watching every day,  
25 and I am in contact with these folks on a regular basis,

1 and we're not going anywhere until we've got this right,  
2 and we've made a good step in that direction.

3 So thank you very much for your presentations.

4 Mr. Aguilar.

5 MR. ESTEBAN AGUILAR, JR.: Your Honor, before  
6 we adjourn, may I approach?

7 THE COURT: Yes.

8 MR. ESTEBAN AGUILAR, JR.: I would like to  
9 provide the Court with a copy of the org charts that  
10 Mayor Keller had asked me for. The first one, for the  
11 record, is the organizational chart as it existed on --  
12 as it currently exists, but this was updated on  
13 February 23, 2018. The ladder on the back page is the  
14 2017 organizational chart, updated November 1, 2107.

15 Thank you, Your Honor.

16 THE COURT: And without objection, I presume?  
17 I'm glad to make this a part of the record, as well.

18 (Organizational charts admitted.)

19 THE COURT: Anybody else? Ms. Martinez.

20 MS. ELIZABETH MARTINEZ: Yes, Your Honor.

21 I just want to make sure that the community  
22 knows that the United States is ordering the transcript  
23 of this proceedings on an expedited basis so that we can  
24 make sure that the community has the transcript as soon  
25 as we can get it to them. We try to make sure that we

1 keep everyone informed on the proceedings in this case.

2 Thank you so much.

3 THE COURT: Yes, ma'am. And I made the point  
4 earlier, perhaps not well, but the three documents that  
5 we talked a lot about today, they are public record.  
6 They've all been filed and are all available on PACER  
7 and, I suppose, maybe on the City's website; I don't  
8 know. But they certainly are available to the public.

9 And unless there's anything else, thanks very  
10 much. We're adjourned.

11 (Proceedings concluded at 5:50 p.m.)  
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1 UNITED STATES OF AMERICA

2 DISTRICT OF NEW MEXICO

3  
4 CERTIFICATE OF OFFICIAL REPORTER

5 I, Julie Goehl, RDR, CRR, RPR, RMR,  
6 New Mexico CCR #95, Federal Official Realtime Court  
7 Reporter, in and for the United States District Court  
8 for the District of New Mexico, do hereby certify that  
9 pursuant to Section 753, Title 28, United States Code,  
10 that the foregoing is a true and correct transcript of  
11 the stenographically reported proceedings held in the  
12 above-entitled matter and that the transcript page  
13 format is in conformance with the regulations of the  
14 Judicial Conference of the United States.

15 Dated this 20th day of March, 2018.

16  
17 \_\_\_\_\_  
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